

A PLAIN
HISTORICAL ACCOUNT
OF THE
T R Y A L,

Between the Honourable

James Annesley, Esq; Plaintiff,

[Who was banish'd into *America*, by his
cruel Uncle, where he remain'd many
Years in Slavery.]

And the Right Honourable the

Earl of Anglesea, Defendant:

In which the Councils Pleadings on both
Sides are entirely preserved;

WITH THE

Evidence of the most material Witnesses
easily digested, the Law Terms, whe-
Latin or *French* explain'd; and the
whole free from the Burthen of tedious
and trifling Circumstances, which too
often attend larger Accounts.

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In the Court of Exchequer in *Ireland*,

*Taken in Court, and carefully revised by
Counsel learned in the Law.*

Began on *Friday November 11, 1743*,
and by Adjournments continued until
the 25th of the same Month inclusive.

BEFORE the Right Honourable *John Bowes*, Esq; Lord Chief Baron ; the Honourable *Richard Mountney*, Esq; Second Baron ; and the Hon. *Arthur Dawson*, Esq; Third Baron ; in an Action of Trespass and Ejectment for the Recovery of certain Lands in the County of *Meath*, by a Jury of the same County.

The Court being sat, and the Jury impanelled, they having appeared at the Bar of the Court, were severally sworn as follows :

" You shall well and truly try this Issue at Bar, now depending here in Court, and true Verdict give according to the Evidence.

No 1.

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| 1 Sir Thomas Taylor, Bart. | 6 Nathaniel Preston, Esq; |
| 2 The Right Hon. William Graham, Esq; | 7 John Preston, Esq; |
| 3 Richard Wofely, Esq; | 8 Charles Hamilton, Esq; |
| 4 Hercules-Langford Rowley, Esq; | 9 Clotworthy Wade, Esq; |
| 5 Richard Gorges, Esq; | 10 Thomas Shaw, Esq; |
| | 11 Gorges Lowther, Esq; |
| | 12 Joseph Ash, Esq; |

The Declaration being open'd, Mr. Serjeant *Marshall*, one of the Council for the young Gentleman stated the Case as follows :

My Lords, and you Gentlemen of the Jury, the Plaintiff's Case is thus: *Arthur*, late Lord * *Altham*, intermarried with *Mary Sheiffeld* in the Year 1706, the Natural Daughter of *John Duke of Buckingham*, and in the Year 1709, some Difference happened between Lord and Lady *Altham* in *England*; whereupon Lord *Altham* came into this Kingdom, and in *November* 1713 his Lady followed him. And soon after coming over, there was a thorough Reconciliation had between the said Lord and Lady. And in the Year 1714, her Ladyship prov'd with Child in the City of *Dublin*, and in some Months after her Pregnancy went down with her Lord to his Lordship's House at *Dunmeau*, in the County of *Wexford*, and in the latter End of the said Year, it was well known in the County of her being with Child. And amongst the Family of Lord *Altham*, that the Lady Dowager of *Altham*, who was married to Mr. *Ogle* the Commissioner, that the said Lady *Altham* made a Present of a rich Quilt to Lord *Altham's* Lady to be brought to Bed in. And one *Joan Landy* was appointed Nurse for the Child, and in the Beginning of the Year 1715, Lady *Altham* was delivered of the Plaintiff at *Dunmeau*, by one Mrs. *Sheil*, a noted Midwife that lived at *Ross* in the County of *Wexford*, that Lord *Altham* declared great Joy at the Birth of his Son: And there were on that Occasion great Rejoycings and Bonfires made, and Preparations for the Christening.

That in about a Month after the Plaintiff was born he was christen'd by Mr. *Loydd*, who was then Chaplain to Lord *Altham*, and Curate of *Ross*, and that the Plaintiff was christen'd by the Name of *James*; and that one Mr. *Anthony Couclough*, and Mr. *Cliff* were Godfathers, and one Mrs. *Piggott* was Godmother.

That *Joan Landy* the Nurse lived at her Father's House before the Child was sent to her, and for the better Accommodation of the Child, a House was fitted up within a Quarter of a Mile of *Dunmeau* House, to which House there was a Coach-Road made on Purpose for the Conveniency of seeing the Child, there it continued for Six Months; and from thence was remov'd home to the Care of a Dry Nurse, *Joan Laffau*, who during her Stay there saw both Lord and Lady *Altham* shew it the greatest Fondness-and Affection.

In

In February 1716, a Quarrel happen'd between Lord and Lady *Altham*, and by Agreement they separated, but on their parting Lady *Altham* desired to have the Company of her Child; yet the Lord *Altham*, out of great Fondness for the Child, would not suffer the Child to go with her. Whereupon Lady *Altham* left the Child with the utmost Grief, and she went to live at the House of one Captain *Butler* in *Ross*, about three Miles distant from *Dunmeau*, where she continued for three Years, during which Time she often sent to see the Child, and seemed more sensible of the Loss of it than of her Husband.

Yet such was Lord *Altham*'s Malice to his Lady, and Care of the Child, that he absolutely refus'd her seeing it, threatening to discard the Servant that should induce her with an Interview. Thus, 'till the Year 1717, the Child continued at *Dunmeau*, when my Lord remov'd to a Place call'd *Kenna*, in the County of *Kildare*, where the Child was soon after sent for and continued two Years; during which Time he was tenderly used and acknowledged as Son and Heir of Lord *Altham*. From thence my Lord removed to a Place call'd *Carrickduff*, in the County of *Carlow*; the Child being then capable of farther Instruction, Lord *Altham* brought a Tutor into the House who attended the young Gentleman as a Nobleman's Son; his Father introduced him as such into all Companies, and as such was he treated at a publick School, whither he was afterwards sent. In the Year 1719 Lord *Altham* remov'd to *Dublin*, where still he was in every Respect regarded as his own Child; but in the Year 1722, fatal for his unhappy Child, Lord *Altham* began a criminal Conversation with one Miss *Gregory* at *Cross-Lane*, yet he was for some Time after used as my Lord's Son.

But, my Lords, and Gentlemen of the Jury, I must now take Notice and inform you, That in the Year 1720 Lady *Altham* came to the City of *Dublin*, and lodg'd in *Stable-Lane*, where she desir'd to see her Child, but was refus'd that Comfort; and having after her Lying-in of her Son *James*, got a Cold, and some other Disorder; and from Grief, which lay very heavy at her Heart, was taken with a Dead Palsy which greatly impaired her Memory, and was in so low and dismal Circumstances, that in the Year 1723 she went for *London* and there liv'd on Charity.

Miss *Gregory*, in the Life-time of Lady *Altham*, assumed the Title of Lady *Altham*, and then rais'd Doubts in the Mind of Lord *Altham*, that as he had some Suspicion before of his Lady, that possibly this Son of hers might not be his own. This so far affected my Lord, that he turn'd the unhappy Child out of his House.

And accordingly in the Year 1724 he was sent to one *Cooper's* in *Fleet-Street*, in this City, to lodge and diet, but with Directions, that he should have Education. Accordingly he was sent to the School of one Mr. *Dun* in *Warborough-Street*; afterwards Lord *Altham* removed to *Proper-lane* in this City, the young Gentleman was look'd upon

upon as the Son of Lord *Altham*, and sent to School. But about this Time his Lordship's Necessity was very great, insomuch as to endeavour to get Money by any Means, even by selling the *Anglesea* Estate, but the Child being in the Way he could do nothing; it was then contrived to make away with him, which they did by imprisoning him in the House of one *Connaugh*, a Dancing-Master, from whence (being like to be starv'd) he escap'd, came to his Father's House, but was there denied Entrance or Support. Thence, in a miserable Condition, he rov'd from Place to Place, tho' he was still known and call'd the Son of Lord *Altham*.

My Lords, and Gentlemen of the Jury, on the 16th Day of *November* 1727, *Arthur* Lord *Altham* (the unhappy Youth's Father) died, and he being destitute of all Friends by his Mother's Side in the Kingdom, and by the Father's Side, having only this Uncle, who then call'd himself Heir to his deceas'd Brother, 'twas industriously reported that my Lord had no Son. This made such Mutterings among the Servants, that the kind Uncle endeavour'd to remove the poor abandon'd Youth by attempting to kidnap him twice, wherein he fail'd. In about four Months after he succeeded, and putting him on board a Transport Ship, which lay in that Harbour, and carried to the River *Delaware* in the West-Indies, where he was sold as a common Slave, being then between twelve and thirteen Years of Age. After being in Slavery some Years he attempted to escape, but being re-taken, by the Law of that Country, was oblig'd to serve again; and by that Means continued thirteen Years in Slavery before he got quit. Yet, during this Time, he always represented his Circumstances to those whom he saw, begg'd they would have Compassion on him, and declared himself to be the Son of Lord *Altham*. Happy for him in the Year 1740, he was taken Notice of, and sent into *England*, by Admiral *Vernon*, where he came in order to sue for his Right, but unhappily was detain'd near *London*, being tried for Murder, and large Sums of Money expended to take away his Life; at whose Instigation the Proofs in the Progress of this Trial will make appear, and being honourably acquitted is now come over, as early as possible, to claim his Right, which he does now by this Ejectment.

To this Mr. Serjeant *Tisdell* added, That the Case in Behalf of the Plaintiff being so fully stated by the Gentleman that spoke last, there was little left for him to add. And upon allowing the Marriage between the Lord *Altham* and *Mary Sheiffeld*, they proceeded by Evidence to prove the Facts contain'd in the Charge, the most material of which were as follows:

Catharine Mary Cormick, being sworn and examin'd, deposed as follows, that she knew the Lord and Lady *Altham*, that they lodged at her Mistress's House, Mrs. *Vice's*, the Year before Queen *Anne* died—And that Lord *Altham* lodg'd there before, and it was in the Winter that his Running-footman came to the Witness
and

and called for his Lord's Slippers, Shirt and Night-cap, for that his Lordship was to lie at Mr. *Briscoe's* that Night, and that great Joy was there for his Lord was going to be married to Miss *Briscoe*; — That she gave him what he asked for, but the Witness desir'd him the next Day to let her know, and that she would not tell her Mistress that Lord *Altham* lay out that Night; — Said, that the Servant came the next Day and told her that Lady *Altham* was come over. That the Sunday following in the Afternoon, when her Mistress was at Church, his Lordship's Servant came and desir'd that his Lord's Lodgings might be got ready, on which she said she would tell her Mistress when she came in, that accordingly she told her Mistress, who answer'd that Lord *Altham* should not bring any body there, for she heard that she was a Baker's Daughter and a Bastard of the Duke of *Ormond's* that he had, and she should not lodge in her House; — That the next Morning the Lord *Altham* came to her Mistress's House and was very angry at what Mrs. *Vice* said, and told her that the Lady he then brought with him was his lawful Wife, and thereupon Mrs. *Vice* permitted them to reside there, 'till they went down to *Dunmeau* to his Lordship's House, in the County of *Wexford*, where they stay'd to the latter end of *May*, or Beginning of *June* following, and then came and lodged again at Mr. *Vice's*, where they then staid till after *Christmas* following, to the best of her Knowledge; — Said, that about *August* following after they came to Town, Lord and Lady *Altham* had a falling out, and the next Morning Lord *Altham* said his Lady had miscarry'd, for the Night before Lord *Altham* put his Head out of the Window, and call'd out for Mrs. *Linas* the Midwife who lived hard by, and afterwards called for Mrs. *Lawler* a Midwife, says she had it from Mrs. *Heath* that Lady *Altham* had actually miscarried, but the Witness would not for the World swear that Lady *Altham* had miscarry'd, and Mrs. *Heath* said to Lord *Altham* that his Lady would be as fruitful a Woman as any in the Kingdom, were it not for his Lordship's ill Usage to his Lady, and about two Months after Mrs. *Heath* told the Witness with Joy that her Mistress, meaning the Lady *Altham* was with Child again; — Said the Lord *Altham* was a strange sort of a Man, very much given to drink Liquors, and stay out late; but afterwards turned a good Husband and told his Lady that if she would not be so frightened that he would not use her so again, and did become a good Husband. — Said, she marry'd one of the Lord's Servants, without the Knowledge of the Lord or Lady *Altham*, and kept out of the Way from them; but going up Stairs and opening a Door she was surpriz'd at seeing Lord and Lady *Altham* sitting near the Fire, and the Lord tying up his Garters, the Witness was going back, but the Lady called her in, said to the Witness, *Katy*, I have not seen you since you were married and I wish you much Joy, the Witness replied, and so do I your Ladyship, of what said the Lady, says the Witness of your Ladyship's little big Belly; at which the Lord laughed at the Witness:

Witness: Expressing little big Belly; that this Discourse was about ten Days before *Christmas*; that Lady *Altham* said to the Witness, *Katy*, since you are married I am sorry you did not marry sooner, for if you had I would be proud of you for a Nurse; on that the Lady said, *Katy!* make haste. And the Witness being cross examined by the Defendant's Council, relating to her own Knowledge of Lady *Altham*'s being with Child, — said, she could not from any particular Observation of her own Knowledge swear that Lady *Altham* was with Child, but from the Care taken of the Lady by her Lord of his being more fond of her, and his not going abroad and taking more Care of her than before, and this Witness could perceive from the Bigness Lady *Altham* appeared when undressed that she was with Child; — Said, that Lady *Altham* at *St. Stephen's-Green*, Lady *Tichburn*, Captain *Briscoe*, and other Families visited Lady *Altham*; — Says Mrs. *Mac Cormick* is married to her Brother, that the Witness is a Printer of Paper, and gets her Bread by that Business; — That she kept a House in *Waterford*, but was not at the Ship with *Henderson* the Quaker, — Said, she was examined as a Witness in a Case between Mr. *Annesley* and Earl of *Anglesea*, and went by the Name she now goes by; Said, she had some Conversation with Mrs. *Shaw* about this Cause, and Mr. *Annesley*; and the Witness said if he was the Man, it was when the Lady *Altham* was with Child at her Mistresses Mrs. *Vice*, but would not swear that he was.

Major *Richard Fitz-Gerald* being sworn and examin'd deposed, that he was acquainted with the late Lord and Lady *Altham*, in the Years 1714, and 1715, that the Deponent then lived at *Prospect-Hall*, in the County of *Waterford*, and that Lord *Altham* then lived at *Dunmeau*, and that he had intimate Acquaintance both with Lord and Lady *Altham* for several Years, but did not see Lady *Altham* at *Dunmeau*; said, he was at *Dunmeau* in *September* after Queen *Anne*'s Death, when Lady *Altham* was lying-in; — that he sent up to know how her Ladyship was, and Word was brought him back that if she would see any-body she would see him, and that he dined there that Day; — said, his Reason for being particular therein is, that Lord *Altham* being with him at *Ross* the Day before, invited the Witness to Dinner to go to *Dunmeau*, and Lord *Altham* said it would be a proper Time for his Lady was lying-in, and that they might tap the Groaning-Drink; that the Witness excused himself, but desired his Lordship to send him Word the next Day by his Servant what his Lady had. That next Morning a Message was brought to him by his Lordship's Servant, that his Lady was brought to Bed of a Son, and that his Lordship desir'd the Deponent to dine there that Day. That the Witness took Horse about one o'Clock, went to *Dunmeau* and dined there; — that Lord *Altham* was in great Joy, had the Child brought down, that the Witness kissed the Child, and drank his Health by the Name of Heir Apparent of *Anglesea*'s Estate, that Captain *Phair* was then there at Dinner, — and the Deponent

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Deponent gave half a Guinea to the Woman that brought in the Child, which Woman he saw this Day before his Examination ;— that he did not lie at Lord *Altham's* that Night, but went back to *Ross*, and the next Day went back to his own House ;—his Reason for being so particular was, that next Morning Company came to him at his Lodgings in *Ross*, and they began to drink White Wine, and staid there pretty late before he got over the Ferry of *Ross* ; said, that having taken Horse after he got over the Ferry, and riding in a narrow Road, being duskish, the Deponent was called out to stand, the Witness ask'd for what ? whereupon he saw a Person lift up his Arm with something shining, but whether it was a Sword or Hanger he knew not, that the Witness reined back his Horse, drew his Pistol, and shot the Horse on which the Man rode that challenged him, that the Man escaped over the Ditch, the Witness would have pursued but his Servant prevented him, by telling him there were more Rogues on the Road before them, and so rode off ; and that he was particular as to the Time, being only three Days abroad, the first Day at *Ross*, the second Day at Lord *Altham's*, and the third Day going Home ; — that the Witness did not dine at my Lord's before or since ;—and being cross examined by the Defendant's Council, he said, his House from *Waterford* to *Ross* is Twenty-eight Miles, and that his Reason for going to *Ross*, was to enquire after a Friend of his who had a Legacy left him by his Uncle *Piggot*.

John Turner, who being sworn and examined, deposed, that he knew the Lord *Altham* and his Lady, and when he first knew them they lived at *Dunmeau*, in the County of *Wexford*, and knew his Lordship in the Year 1711 ; said, that he was * Seneschal to *James Earl of Anglesea* during his Life ; that the Witness was married the 29th of *September* 1714, and that in about a Month or Six Weeks after his Marriage his Wife and he went to visit Lord *Altham* to *Dunmeau*, and that the Deponent and his Wife staid there till after the *Lent* following ; that he saw the Lady *Altham* with Child, and that she was big when he and his Wife went there, and that the Lady told him so ; said, that in the Summer following in *July* or *August*, the Witness went there again, but did not see Lady *Altham* then with Child, and that he knows nothing of any Christ'ning being there ; and being asked as to the Report of the Country as to that Particular, the Council on the Behalf of the Defendant objected to that Question being asked, —and the Witness was not asked it ; but was ask'd what was the Report in the Lord's House ;—he said it was reported in the Lord's House, that the Lady had a Son ; — and that her Ladyship told the Witness she had a Son ; said, that in a Year and a half after he saw the Boy at *Dunmeau*, and that he was a Child about that Age, and that the Lord and Lady was then there, that the Witness had the Child in his Arms, and saw him carried in a Woman's Arms, and in about two Years after he was at *Dunmeau*, and saw my Lady hand the Child a-cross the Parlour, saw my Lord

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* *Steward.*

kiss the Child, that the Child stood at my Lady's Knee, and that her Ladyship called the Child *Jemmy*; that he saw the Child afterwards at *Ross*, and at *Kenna*, at a Lodge of my Lord's in the County of *Kildare*, and when he saw the Child at *Kenna* he was about six Years old, and that my Lord was then there; that when he saw the Child at *Ross*, which was but once, it was at the House of one *Butler*, and the Person who had the Child told him that the Lady *Altham* was then in Town; that when he saw the Child at *Kenna*, he was treated as the Son of the Lord *Altham*, and called him Master, and saw him three Times there, and my Lord used to take the Child in a Wheel Carriage out with him to the * *Currah*, that his Lordship called the Child, dear *Jemmy*, and *Jemmy* honey; and that about half a Year after my Lord left *Kenna*, he saw the Lord and Child at *Carrick* in the County of *Carlow*, and saw the same Fondness used towards the Child by my Lord as before, and that about the Year 1721 or 1722, he was with my Lord at the *Walshes-Head* in the City of *Dublin*, that my Lord sent for the Child to come to him there, that the Witness might see him, and the Child being come into the Room my Lord said, there is my Son, and he believed the Child was then about eight or nine Years old; and the Witness being asked what particular Discourse passed between him and the Lord *Altham* on that Occasion; the Witness said, that my Lord addressed him thus, *John Turner* you were Seneschal to Earl *James* and Earl *Arthur*, you will out-live me, and you may be Seneschal to this Boy; he saw the Boy about two Years after in *Dublin*, but did not know him tho' he saw him in the Street, and the People call'd him my Lord; but that the Witness did not believe the People, the Person he saw whom they called my Lord being in a shabby Dress, and that no black guard Boy was half so bad; that Lord *Altham* was alive and believed he then lived at *Inchicore*; and this Witness being cross examined by the Defendant's Council, said, that Lady *Altham* was a big Boned large Woman; that her Hair was not Jet Black, but Brown; he eat constantly at the Table with my Lord and in all Company, that several People went there to visit at her Ladyship's at *Dunmeau*, that the Witness knows none of them, being a Stranger and unacquainted on that Side the Country, but saw Colonel *Palissier* there; knows not who was Butler, Maid, or Servants there then; but heard the Name of *Heath* in the Family; that he saw her but knows her not, knows *Cavenah* at *Killcullen-Bridge*, but knows not whether he lived there, nor of *Rolph*, nor Coachman, Groom or Chambermaid, did not hear of the Name of *Joan Landee* there; and but lately heard of her Name.

Said, the Child he saw at *Ross*, when he saw him there was about three Years old, did not know him for that he was in a Woman's Arms, but being well dress'd, he asked a little Boy whose Child that was, who said Lord *Altham*'s; does not know whether the Child he saw at *Dunmeau*, was the same he saw at *Ross*, but was sure it was the Child

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Child he saw at *Kenna*, and was the same he saw at *Carrickduff*; never saw Lady *Altham* before he saw her at *Carrickduff*, and after the Separation saw her in *Ross*, and *Dublin*; he did not hear when he was at *Dunmeau*, that the Lord had a Bastard, nor did he hear of it till within these two or three Years; he heard that Lord *Altham* died in the Year 1727 or 1728; that when he saw the Boy ragged that was call'd, My Lord, by the Boys, it was on the Merchants Quay in *Dublin*, that the Witness asked a Woman who sold Roots, who that Boy was they called, My Lord? The Woman said it was Lord *Altham's* Son.

The Witness was order'd to withdraw; but he said he could tell more, and being desir'd to declare what he had further to say proceeded thus: — That in the Year 1717 or 1718, the late Lord *Altham* applied to the Witness to apply to *Arthur* Earl of *Anglesea* to give my Lord something to maintain his Son; that the Witness accordingly applied, but receiv'd no Answer for a Fortnight, but afterwards Earl *Arthur* gave the Witness fifty Pounds to give to Lord *Altham*, and which the Witness did.

Said, that he was over the Water about three Years ago with the present Defendant the Earl of *Anglesea*, at his House about some of the Family Affairs; whereupon, and in Discourse the Witness ask'd the Defendant, where was *Jemmy*? the Witness meaning the Plaintiff, the Lord *Altham's* Son. The Defendant then told the Witness that the Child was dead.

Mrs. *Deborah Annesley* next Witness sworn, and being examin'd; — Said that she was well acquainted with the late Lord, that his Lordship was a Relation of her Husband's, and knew my Lord when he lived at *Kineave* in the County of *Kildare*, in the Year 1718, that she often saw his Lordship come to *Bullyshannon* to her Brother *Jeffry Paul*; — Said, that she very often heard mention made of his Lordship's Son, when his Lordship came to visit her Brother, and the Reason why she did not visit my Lord at his House at *Kineave* was, because he had brought down a Housekeeper there; — Said, she never saw the Child; but that my Lord at her Brother's House in the Presence of the Witness often drank his Son's Health, and the Witness believ'd the Son's Health so drank was the real and lawful Son of Lord *Altham*, and always heard him called by the Name of *James*; — Said, that her Brother Mr. *Jeffry Paul* was so grave and sober a Man, that he would not drink his Lordship's Son's Health if he did not believe he was his lawful Son, and was sure her Brother would not drink a Bastard's Health, and never heard till of late, that that Son was a Bastard, and was told that the Child's Health so drank was then in Habits; — Said, she was informed by her Servants that the Child went from *Kineave* to *Carrickduff*, that she very often enquired after the Child, and was told that he was out of the Kingdom, and that he had return'd lately; — Said, that after the Death of Lord *Altham*,

Altham, both she and her Brother often enquired after that Child, but could hear nothing of him but as aforesaid, and being Cross examined by the Defendant's Council ;—She said, she saw Lord *Altham* often drink his Son's Health, and she never doubted of his having a Son, but never heard any thing of that Child till he came to live at *Kineave* ;—Said she went to see my Lady but once after her Ladyship came from *England*, and that at *Temple-Bar* in *Essex-Street*, in the City of *Dublin*, in Company with Lord *Altham*, and never had any Conversation with her Ladyship ;—Said, that at the Time my Lord and Lady lived at *Dunmeau*, was about the Time of the Death of her Husband, and that she was in such Affliction, that she held no Correspondence with them ;—She said the Words made use of by her Brother on drinking my Lord's Son's Health, were these : Your Lordship's Son's Health, and never heard that my Lord had a Bastard.

Thomas Barnes being examined, said that he did not know any thing of my Lord's having a Son, but what his Lordship told him, that the Witness being in *Dublin* most of the Year 1714, and in Spring 1715, having an Account from *Ross* (which before then was his Place of Residence) that all his Affairs were going to wreck—There the Witness could not speak loud enough to be heard by the Court or the Jury, his Son *Thomas Barnes* the younger being called, was sworn an Interpreter, and being examined, said, that receiving the above Account of his Affairs going to wreck, he went down to *Ross*, and not being long arrived, but being in the Kitchen when Lord *Altham* came in, he asked the Witness where he had been the Year 1714, the Witness answered he was at *Dublin* that Year about Business of the Duke of *Ormond's*,—That thereupon my Lord desired the Witness to dine with him that Day in the said House ; which he did, and no other Person was with them ; that after they had drank a Glass together, my Lord said to the Witness with Pleasure, *Tom*, I have News to tell you. What News my Lord ? said the Witness, my Lord said, I have a Son by *Moll Sheffield* ; at which the Witness shook his Head, not recollecting that his Lordship was married, but thinking it was by some other Woman, on which my Lord said, 'Zounds Man she is my Wife, whereupon the Witness recollecting that he had been married to the Natural Daughter of the Duke of *Buckingham*, and his Name was *Sheffield*, asked his Lordship whether he would take his Advice, for that he the Witness desired and recommended it to his Lordship to stay at home with his Wife, and not to follow any other Woman ; that this Conversation was in the latter End of *April* or Beginning of *May*, in the Year 1715, and his Reason for being so particular was, that the Witness's Father died in *June* 1714, and soon after had Notice that all his Affairs were gone to wreck ; that his Lordship did not tell him where his Lady was brought to Bed, because the Witness knew that they

they then laid at *Dunmeau*, and his farther Reason for being so particular was, that before then he was Forty-five Years concerned for the Duke of *Ormond*, and was sent for to *Dublin* to attend Mr. *Nutley* and other Commissioners, soon after the 'Troubles of the Duke of *Ormond*; that he went the next Morning to *Dunmeau*, saw Lady *Altham*, and she was very well, he dined there, and play'd at Cards, but does not know whether he saw any Child there, nor does he remember that he spoke to her Ladyship about the Child, for he did not know her Ladyship before; that he saw my Lord several Times after, but never spoke to him about his Son; and that Mr. *Sutton* din'd at *Dunmeau* that Day, but had no talk about the Lord's Son; —And being cross examined by the Defendant's Council, said, he believed that he knew *Rolph*, that Mr. *Taylor* was House Steward, but had no Conversation with him, nor did Lord *Altham* tell him the Name of the Child, nor whether he was christen'd; that the Meeting with his Lordship was at his Lodgings in *Ross*, and that he heard from five hundred Persons at *Ross*, and in every House there that his Lordship had a Son; that the Witness was not ten Minutes in *Ross* before he saw Lord *Altham*; that the Witness play'd at Picquet with her Ladyship in the Parlour, and that she was then very well.

Philip Green sworn, who being examined, said, he knew the late Lord and Lady *Altham* thirty-three Years ago, said, he knew my Lord two Years before he saw his Lady, that he lived then at *Dunmeau*, with his Father and Mother, that his Father was a Cottier, and worked in the Lord's Garden, but that the Witness was not a Servant in the House; that he saw the Lady with Child, heard she was brought to bed, and that he saw Bonfires at *Dunmeau* on the Birth of the Child, and Drink given thereat, such as Wine and Ale, that it was about *May* or the latter End of the said Month, twenty-eight or twenty-nine Years ago; that *Joan Landee* nursed the Child at her Father's House, that there were two Rooms and a Chimney in the House, and the House was thatched, and that *Joan Landee's* Father and Mother lived in the said House whilst the Lord *Altham* was in the Country, that he often saw the Child in the Lord and Lady's House, and abroad with her in the Coach, and that a Coach-Road was made from *Dunmeau* to *Joan Landee's* House; that he knows that *Joan Landee's* Child is dead, and that he died after the Lord and his Child left *Dunmeau*, that he died at *Dunmeau* of the Small Pox, that he was at the Wake and Burial.

—Said, he saw Mrs. *Heath* lace Lady *Altham's* Child in the Great Room at *Dunmeau* near the Kitchen; and being cross examined, said, that he knew not that any-body was in the Room when he saw Mrs. *Heath* lace the Child; that *Joan Landee* had a Child before she was married, and that it was talked of in the Town, that her Child belonged to three Persons, and it was reported that Lord *Altham* was one of them, that she was afterwards married to *Christopher Cormick*,
and

and brought to bed a Year before Lady *Altham*; that no-body lived in the House where *Joan Landee* nursed the Lord's Son before the said *Joan* went there to live; and believed she was turned out of the House of *Dunmeau* before the Lady went there? That he had no Discourse with the said *Joan* about her Son; that he was in a great many Rooms of *Dunmeau* House, but never in the Lady's, that Lord *Altham* had both Coach, Chariot and Chaise; that *Joan Landee's* Son was kept at her Sister's House the time the said *Joan* had Lord *Altham's* Son at Nurse; that the said *Joan's* Son was called *Jemmy Landee*, but did not ever hear him called *Jemmy Cormick*; and swore by his Soul that he did not know who christened *Joan's* Son.

Elinor Murphy, being sworn and examined, said, she knew the late Lord and Lady *Altham* when they lived at *Dunmeau* about twenty-eight or twenty-nine Years ago; that she was under the Landry Maid in the said House, and was called to bring up some Water to wash the Child that Lady *Altham* was delivered of, just as it came into the World, and said it was about *May* or beginning of *June*, the beginning of Summer, that Mrs. *Sheil* was the Midwife, and that *Mary Doyle* the Maid was then in the Room; that the Child was a Son, and that *Joan Landee* was the Nurse, and said there was great Joy at the Birth of the Child, and Bonfires made; that the Child remained in the House three Weeks or a Month before he was removed to the Nurse's House, which was but a short Distance from *Dunmeau* House; that she was in the House at the Christening, that the Gossips were Mr. *Couclough*, Mr. *Cliff* and Mrs. *Piggott*, that she knew Mr. *Couclough* and Mr. *Cliff*, at *Ross* before, and saw *Madam Piggott* very often at *Dunmeau* House before, and that the Persons above-named stood Gossips to young *Jemmy Annesley*, that she was not present at the Christening being then washing the big Linnen, as Sheets and Table-Cloths, under the Landry Maid, that Mrs. *Heath* was the Name of Lady *Altham's* Woman, and that it was Mrs. *Heath* told her who were the Gossips, and being cross examined by the Defendant's Council; said, that *Joan Landee* had a House of her own with her Father and Mother when she had her own Child, before she got Lord *Altham's* Son to Nurse; that she took no Notice of how many Rooms there were in the House, but that a new Room was built for Lord *Altham's* Child, and that she saw *Joan Landee's* Child after she got the Lord's Child to Nurse; said that Lady *Altham* was not long in Labour, that it was duskish when she was deliver'd, and she was in the Room with Water to wash it, and that Lady *Altham* kept her Room a Month or six Weeks after, and the Room was called the Yellow Room where her Ladyship was brought to bed in, and where she lay, that Mrs. *Heath* told her the Christening was above Stairs, that she was three Months in the said Lord's Service before his Lady was brought to bed, and staid there a quarter of a Year after, that *Mary Doyle* was in the Service before,

and

and believ'd the said *Mary* left the House before her; that she did not see *Mary Doyle* this Day, and the Deponent was in the Room with the other Witnesses, did not know who *Joan Landee* fathered her Child on, but did not hear that Lord *Altham* was the Father;—said, she did not wash her Lady's Shifts nor Sheets, that neither Mr, *Giffard* or Mr. *Siffion* was at the Christening, but that Mr. *Loydd* the Clergyman was there.

It being now Twelve o' Clock at Night when this Witness was done examining, and no likelihood of the Trial being over for many Days, and being impossible either for the Court, Jury or any others concerned in the Cause to abide the Tryal without Adjournment, it was agreed by both the Parties, Plaintiff and Defendant, in open Court by Consent that an Adjournment should be made, and accordingly a Consent was drawn up in Writing in open Court, which was signed by the Plaintiff and Defendant in Court, and their respective Attornies, that no Advantage should be taken of the said Adjournment, but that the Trial should be as if no Adjournment, and that both Parties should appear the next Day, so that the said Trial might be proceeded on, and that if the Defendant should not appear, a Verdict was to be given against him, and that if the Plaintiff did not appear, a Non-suit should be entered against him, and further consented that the said Consent should be made a Rule of the Court.—Which said Consent being so signed and read in open Court, the same was accordingly ordered to be received, and an Adjournment was made to the same Place at Nine of the Clock the next Morning.





The Second Day of the TRYAL.

Saturday November 12, 1743.

THE Court having sat according to Adjournment, and the Parties having appeared by their Attornies, and the Jury so sworn being called over, they severally appeared and answered to their Names, and being together in the Jury-Box all other Persons having withdrawn, the Court desired the Plaintiff to proceed with his Evidence, and the next Witness that was called was *Christopher Brown*; who being sworn and examined, —Said, that he knew the late Lord *Altham* when he first went to *Dunmeau* to live, which was about Thirty-three Years ago, and is thirty Years since Lady *Altham* went first there,—said he knew she had a Child there about twenty eight or twenty-nine Years ago; for that he then lived with 'Squire *Cliff* who was invited to the Christening; that he went with his Master there and waited on him at Table, and well remembered that Mr. *Anthony Couclough*, his Master's Brother, Mr. *Cliff of Ross*, and Captain *Tench* were there, but remembers no other Gentleman, and to the best of his Memory it was about the Beginning of the Summer, and believed in the Month of *May*, knew of no Ladies being there but Madam *Piggott*, that Mr. *Cliff of Ross* was not his Master but Mr. *John Cliff*;—

Said, there was a splended Entertainment, and great Plenty among the Servants, and in the Family; he was sent several Times after by his Master Mr. *Cliff*, to know how Lord, Lady, and the Child were, and that he saw the Child at *Dunmeau* in the Lap of Lady *Altham*, and that *Joan Landee* was his Nurse, and he believ'd the Child was a Boy, and that he the Witness was Mr. *Cliff's* own Man; he knew of no Healths that were drank there, but the Lady in the Straw and the young Christian.—And being cross examined by the Defendant's Council, said, That he could not recollect what Healths were drank at Dinner, that he knew not whether the Christening was before or after Dinner, the Witness not being present at it; he saw a Clergyman there at Dinner, call'd Mr. *Loydd*, whom he knew before, and that Lord *Altham* was at Dinner,—said, that Madam *Piggott* sat at the Head of the Table, but does not remember that any other Woman

Woman was there ;—Says, all the Persons he saw at Table that Day at Dinner are all dead, that Mr. *Taylor* dined by himself; that one *Redmond* dined with the Witness and the other Servants, and they were all very merry, but does not remember any Healths they drank, that there were no Maid Servants with the other Servants at Dinner, being all so busy in running about the House ;—Said, he never saw the Man since that attended that Day as Butler, but his Name was *Anthony Dwyer* ; did not know whether there was a Goose or Partridge at Dinner,—said he heard among the Servants the Names, but whether the Christening was above or below Stairs he knew not, he not being there, nor did he see the Nurse or Child that Day,—Said that he knew Captain *Sutton of Ross*, but does not believe that he ever saw him at *Dunmeau*, knows that Captain *Couclough* was at Dinner there, because he was married to his Master's Sister, that his Master did not stay there all Night, but went away about Eight of the Clock, that he saw no Bonfires there that Night, but heard there was great Rejoycings at the Birth of the Child ; —Said, he did not know *Thomas Rolph* the Butler ; that the Witness always when he went to *Dunmeau* with a Message, waited to deliver the same to Mr. *Taylor*, and he would bring him back his Answers, that Mr. *Taylor* did not wear a Livery but very good Clothes, and was Manager for Lord *Altham*, but knows not whether he be living or dead ; knows neither *Mary Doyle* or *Elinor Murphy*, nor whether he ever saw either of them ; saw the Child in the House at *Dunmeau* with the Nurse, and never saw the Lady *Altham* but once, that she was a tall slender Woman, and taller than the Witness, was thin in the Face, and her Hair was always powder'd. As to her Complexion he could give no Account of, but to him she was very handsome.—As to the Shape of her Body he knew not, she being sitting at the Time he saw her and that it was about Ten of the Clock in the Morning, did not know how long he lived with Mr. *Cliff* either before or after the Christening, but that he lived with him Twenty-one Years ; that his Master was never married, that Lady *Altham* never visited there ; but Lord *Altham* did, and that his Master had Sisters who lived with him, but they never visited Lord or Lady *Altham* ;—Said, the Place where the Company dined the Day of the Christening was in the Parlour of the left-hand going into the Hall, that he did not know the Person that stood at the Side-board, but that it was not *Anthony Dwyer*, and that he went to the Side-board, and helped his Master with Wine from thence, and that every Gentleman's Servant waited on their Masters at Table ;—Remembred none of their Names, it be-

ing so long ago, but one *Magher* that was Councillor *Cliff's* Servant, who lived with him but a short Time; that he did not remember how many Tables were laid for the Servants but that there was one long one in the Common hall, where he and the other Gentlemens Servants dined, and was on the same Floor with the Parlour, but did not know whether *Denis Redmond* din'd there, that he did not dine in the Kitchen, and as near as he could guess the Kitchen was on the same Floor with the Common-Hall; was not in any of the Rooms in the House when he went of the Messages, but sometimes in the Kitchen, and that at that Time the Kitchen was above Ground, and did not go down Stairs to it, and that he went in through the Street Door.

John Scot being sworn, said, that he knew Lord *Altham* thirty Years ago when he lived at *Dunmeau*; that he was then Servant to Mrs. *Margaret Piggot* of *Tentor*, within four Miles of *Dunmeau*, and that he lived with her seven Years, and he first went to live with her Thirty-three or Thirty-four Years ago;—Said he went to *England* with Sir *Henry Piers* Twenty-nine Years ago, and that Mrs. *Piggot* followed them, and they returned back into *Ireland* about *June* or *July* Twenty-eight or Twenty-nine Years ago, was sent with a Message to his Mistress with A-how-do-you-do, to my Lord and Lady to *Dunmeau*, and to know how they and Master did; that his Reason for going to *England* with Sir *Henry Piers* was, that his Servant falling sick, the Witness was sent with Sir *Henry* to wait on him; and that it was reported in the Country that my Lord had a Child by his Lady, and that it was a Son; that the Child was brought three or four Times to his Mistress by the Nurse.

Joan Laffau being sworn and examined, said, she knew the late Lord and Lady *Altham*, and knew that her Ladyship had a Child, that she went to live with my Lady about Harvest-time, in Summer, in 1715; that she lived with Colonel *Deane* the Year Queen *Anne* died, and when King *George* the First came in.

And in the next Year went to live with Lady *Altham*; that she remained at Colonel *Deane's* about half a Year after the Queen's Death, and that it was not a whole Year after she left Colonel *Deane's*; that she went to live with Lady *Altham*, but it was in Harvest-time in the Year 1715; that she was Chambermaid in Lady *Altham's* House, and employ'd as a Dry-Nurse to attend the Child after he came home from his Wet-Nurse;

that

that the Child was a Son, and was call'd Lord *Altham's* Child, and call'd by the Name of *James Annesley*; that she dry-nursed him for a Year and an half, during which Time he was kept like a Nobleman's Son, believ'd the Child was about three or four Months old, at the Time she went to live at Lady *Altham's*, and about a Year and a half old, when he was put under her Care; said, Lord and Lady *Altham* were very fond of the Child, and when her Lord would get up, the Lady would send for the Child, and take him into Bed, and kiss him; said, that about half a Year after the Child came home, the Lord and Lady parted; that Lord *Altham* went to live at *Kineave*, in the County of *Kildare*, and left the Deponent with the Child, and other Servants, at *Dunmeau*; that when the Child was about three Years old, he was sent for to be brought to *Kineave*, and that *Charles Magher*, the Lord's Butler, was sent for him, and took the Child away; said, that after the Lord and Lady had parted, her Ladyship went to lodge at Captain *Butler's* in *Ross*; that she parted in Anger about *Thomas Palisser*; that on Lady *Altham's* going away she desir'd to have the Child, and had him in the Chariot with her; that Lord *Altham* would not suffer the Child to go with the Lady, and took him out of the Chariot from her; that the Lady took Leave of the Child, and then the Lord gave the Child to the Deponent, and at the same Time gave Directions to this Deponent, and to Mr. *Taylor* his Steward, not to suffer the Child to be carried to the Lady *Altham*; said, she the Deponent went to *Waterford* to see her Brothers, and left the Child in the Care of Mr. *Taylor*, and other Servants; and that she heard that in her Absence, some of the Servants, in order to get a Piece of Money, had brought the Child to *Ross* to Lady *Altham*; that Lord *Altham* heard of it and was angry; said, the *Christmas-Eve* after their Separation, the present Earl of *Anglesea* came to *Dunmeau*, and the Defendant ask'd this Deponent for *Jemmy*, his Brother's Son? To which the Deponent replied, he was at Home. That the Defendant asked her, how Lady *Altham* had behaved towards him? The Deponent replied, that her Ladyship was very uneasy that Lord *Altham* would not let her have her Child: On which the Defendant said she should have him, for that he would not be troubled about any of the Breed; said, that she would not dry-nurse any Bastard Child for any Lord.

And being cross examined by the Defendant's Council, said, that *Joan Landee* was the Child's Wet-Nurse, and that it was nursed abroad; that Lady *Altham* would often go in her Chariot to see the Child, take the Child therein, and bring him backwards and forwards; that the Nurse and Child lay sometimes

times at *Dunmeau*, and that the Child was at the Nurse's House for a Year an Half; said, that if the old Lord *Donerail* was now alive he could prove the same; and that the Child was often shewn to him by the Directions of Lord *Altham*, who took great Diverſion in the Child: And as a Manifestation of the Truth, said, that Lord *Donerail* and Lord *Altham's* Running Footmen run for five Guineas to *Ballyback*; that this Affair was after the Separation, and that Lord *Donerail* was at *Dunmeau* for six Weeks together weather-bound; said, that Mrs. *Giffard* visited Lady *Altham* at *Dunmeau* twice or thrice, and believ'd that those Visits were paid before the Child came under the Deponent's Care, and did not believe that Mrs. *Giffard* visited the Lady after the Child came under the Care of the Deponent, nor did remember that she saw Mrs. *Giffard* at *Dunmeau*, during that half Year that the Deponent had the Care of the Child before the Separation; that on a fine Day, the Lady would send down for the Child; that he had as fine Cloaths as any Lord's Child; that he had a Velvet Hat and Feather, a Scarlet Cloak trimmed with Silver-lace, and other fine Cloaths; and the Child's Linnen was made by Mrs. *Butler*, Lady *Altham's* Landress; did not know that Lord or Lady *Altham* visited at Mrs. *Giffard's*; said, that Mrs. *Lambert*, *Aaron Lambert's* Wife, was not the chief or only Person the Lady kept Company with, but that Mrs. *Pigott* and Captain *Butler's* Wife of *Rofs* were, and that the Child was often shewn to them; said, she saw Colonel *Palisser* at *Dunmeau*, but whether he saw the Child there she did not know; that Mr. *Thomas Palisser* was at *Dunmeau* almost that half Year, and often saw the Child; she wished he was never there; for it was on his Account that all the Mischief came, and caused the Separation; that he was very ill belov'd by the Servants of the House, and they hated him; not only on Account of his Complaints of them, but from some Observations they had made of too much Freedom between him and Lady *Altham*, that they and their Lord had laid a Scheme to find it out, and which they did; and that Mr. *Palisser* was taken in the Lady's Room, and his Ear cut off; his Ear was cut off by Lord *Altham's* Huntsman by Orders of the Lord; that she was present, and the Child pointed to the Blood on the Floor that fell from the Ear; that the Servants and Mr. *Palisser* were then struggling together, and that Lord *Altham* was going to run Mr. *Palisser* through; that the said *Palisser* was brought out of Lady *Altham's* Room; that the Lord *Altham* was present when he was brought out with a drawn Sword in his Hand, and others of the Servants with drawn Swords, and the Lord swore he would run Mr. *Palisser* through; that the Servants

cried

cried out, not to take away his Life, but to cut his Nose or Ear off.

And accordingly his Ear was cut off, in the Middle Room, next the Yellow Room, which was the Lady's Room, and afterwards was kicked down Stairs, and the Lady went away that Day ; that it was on a *Sunday* Morning about Eight o'Clock that Affair happened, and that the Lady went away that Afternoon ; that she knew Col. *Loftus*, and he visited Lord *Altham* than *Anthony Dwyer* was Servant to the Lord *Altham*, and Mrs. *Heath* was my Lady's Woman, and were both there at *Dunmeau* at that Time ; — but did not remember that *Owen Cavenagh* was there, and remembered that *Martin Kneef* lived in the family ; that she knew *William Elms*, that he was a Farmer, and lived within two Miles of *Dunmeau* ; but said she never saw him there ; that Mr. and Mrs. *Lambert* visited Lord and Lady *Altham*, and that Mrs. *Lambert* saw the Child, and that the Lord visited Mr. *Hort* ; that the Deponent went to *England* a Year and an half ago, and went thither the 25th of *March* was Twelve months ; that she took shipping at *Ballyback* and landed at *Bristol* ; that she knew *William Henderson*, a Quaker, and that she saw him at *Waterford* before she went for *England*, but said he did not go in the Ship with her ; that she went to the said *Henderson's* House in *London* ; that *Joan Landee* went thither also ; said, it was *Henderson* sent a Person to her in *Waterford* ; that when she went to him, he asked her, if she knew any thing of the late Lord and Lady *Altham's* having a Child ? She answer'd, she did, but believ'd that he was dead, she having heard that the Child was transported a great many Years ago ; that *Henderson* said, he was not, for that he lately came over into *London* ; said, this Discourse was in *Waterford* ; and that three or four other Persons, then at *Waterford*, was to go over with her ; that *Bridget Holden*, *Joan Landee*, and *Edmund Howly* went over together, and went up to *London* ; said, she knew Mr. *Snow* of *Waterford* ; that she never made any Affidavit before him, nor did he, to her Knowledge, ever write down any thing by her Directions that she would swear here ; but said, that she made an Affidavit before a Master in Chancery in *London*, relative to Mr. *Annesley* the Plaintiff, but never took any Oath in *Ireland* relative to him, or this Cause ; her chief Business to *London* was, to receive Money that was due to her Nephews who were in the Fleet, and that she went thither at her own Expence ; that she went up to *London* in a Coach, and that she paid sixteen Shillings as her Freight, of her own Money ; that *Joan Landee* and *Henderson* went also up in the Coach to *London* ; but *Henderson* did not pay the Deponent's Proportion of

of the Coach Hire, though he bore the Expences on the Road, and that she paid a Crown of her own Money for her Passage in the Ship, and *Henderson* paid for her Lodgings in *London*, and was half a Year after Servant to *Henderson* at his House in *London*, and was applied to by the said *Henderson* to be a Witness for the Plaintiff, *Mr. Annesley*, about a Tryal to be had in *London*; said, she knew *Mr. Paterfon* and *Mr. Mac Kircher*, and they asked her, what she could say to that Affair; said, that *Joan Landee* was also in *Henderson's* House in *London*, and lived there.

Said, she never got, or was promised any Bribe or Reward for being a Witness for the Plaintiff; she did not remember that either *Lambert*, or *Mrs. Giffard*, lay a Night at *Dunmeau*; the Apartment made up in old *Landee's* House for Lady *Altham's* Child was plaister'd, white-wash'd, had in it a Fire-place, a Bed, and a small Glas, and that the Child wore fine Cloaths there; that she was the last Servant that was left in the House at *Dunmeau*, after the Child went to the County of *Kildare*; that she afterwards went to Lord *Altham's* for her Wages and there saw the Child that was before under her Care, and that he was then four Years old, and then under the Care of one *Mrs. Mary*; that she heard that one *Joan Landee* had a Child, and that she nursed her own Child for some Time; and that her Sister nursed it after, and heard that that Child was dead; that *Joan Landee* went under the Character of being married to a Sailor, and that he was abroad, otherwise she would not have had Lord and Lady *Altham's* Child to nurse; that she knows *Father Downes*, and could not tell whether she saw him at *Dunmeau* House after the Separation, but that she saw him there before; and that the said *Downes* is now alive; that she believ'd that Lady *Altham* heard, that the Child *Joan Landee* had of her own, was Lord *Altham's*, but that when her Ladyship heard of it was after the Separation, and did believe that if her Ladyship had heard of it before, that *Joan Landee* would not have been employed to nurse her Ladyship's Child.

Thomas Brookes, Chirurgeon, who being sworn and examined, said, that he is a Piece of a Chirurgeon, and followed that Business Forty-seven or Forty-eight Years; and that he liv'd in the County of *Wexford*, at a Place called *Tareen*, between *Ross* and *Wexford*, and within Three Miles of *Dunmeau*, and that he was at *Dunmeau*; that about Twenty-eight or Twenty-nine Years ago, a Servant of Lord *Altham's* from *Dunmeau* came to the Witness's Father's House, who was then a Farmer, and brought a Message to the Witness, which was to hasten away to

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Dunmeau, and believed it was about the Spring of the Year; the Trees being green, but did not know the Month, nor did he know whether the Trees were in Bud, or had Leaves on; that he went with the Servant who brought him the Message, and that it was towards the Evening, and light enough to do his Business; that he knew Mrs. *Sheil* at *Ross*, that she was then at *Dunmeau* House, and knew that she was a Midwife; that Mrs. *Sheil* shewed him up to Lady *Altham*'s Room, and desired him to bleed her Ladyship, which he accordingly did, and that Lady *Altham* was sitting in her Bed, when he bled her, and was very ill; that her Ladyship complained, and cried out, Oh, my God! that it was the Lady he bled, she having been shewn to him, before he bled her; that as soon as he had done his Business he went out of the Room, and staid in the House, for some Time to refresh himself and having been in a Room for some Time, Mrs. *Sheil* came down Stairs, and came into the Room, where the Witness was, smiling, and said, she had safely delivered her Ladyship of a Son; that he was at *Dunmeau* again about a Year after; and that Mrs. *Heath* was in the House when he bled the Lady, but did not know who were then in the Room, but some Women were there.

And being cross examined by the Defendant's Council, he said, to the best of his Knowledge, he went up one Pair of Stairs to the Lady's Room; that the Servant that came for him wore a Livery; did not know him or any of the Servants of the House; did not see any Pains of Labour about the Lady; that he bled her in the Arm. She asked him no Questions, but held out her Arm by the Directions of Mrs. *Sheil*, and bled her on a Pewter-Plate, but knew not how much Blood he took from her; that the Messenger brought no Horse for him, that the Witness rode his own Horse, and rode hard; that he took no Notice whether her Ladyship had any Cloaths on her, and that *Dunmeau* was three Miles from *Ross*, that there was a Chirurgeon who lived at *Ross*, and also one *Brewer* a Chirurgeon at *Ross*, that the Midwife bid him not take away much Blood; that he did not take much Notice of the House, that he was three Times there before to bleed the Servants, and knew of no Chirurgeon that attended the Family; said, he had no particular Reason to know the Period of Time he was there; nor whether Queen *Anne* was living or dead; that he never bled any Woman there, but the Person call'd Lady *Altham*; said, he is now Forty-eight, Forty-nine or Fifty Years old, and has practis'd Chirurgery since he was about twenty Years of Age; that he bled other Persons before he bled her Ladyship, but did not know how long he was a Chirurgeon before that Time; but

but believed he was ten Years and more, and knew how to bleed before that Time.

Lawrence Misset, Gentleman, who being sworn and examined,—Said, he knew a Person that lived at *Kineave* near the Place where the Witness lived in the County of *Kildare* called Lord *Altham*, and that his Lordship lived there about two Years, and the Witness was then a School-boy, and about seventeen or eighteen Years old; that there was then a School at *Dowding stone*, where the Witness now lives, and a Boy went there to School whom they called Lord *Altham's* Son, and the School-Master's Name was *Bryan Connor*; that it was a poor Country School; that the said *Connor* was a Popish School-Master, and was prosecuted by a Protestant School-Master in that Neighbourhood; that several of the Neighbours along with the Witness applied to his Lordship to protect the said *Connor* from the Prosecution; his Lordship said he would take another Method to prevent *Connor's* being prosecuted, for that he would send his own Son to *Connor's* School, and by that Means the other Person would desist the Prosecution.

——Said, this Application was made to Lord *Altham* when he was a Hunting.——Is sure that it was at the Request of the Neighbours that Lord *Altham* made the Promise—That he did not know what Year the Lord *Altham* went to live at *Kineave*, but believed it was some Time after that Lord *Altham* went to live there, otherwise the People would not know him, and believed it was a Quarter or Half a Year after he went to live at *Kineave*——Believed the Witness is now about Forty-two or Forty-three Years old, and was sure, that Lord *Altham* must have lived at *Kineave* for some time, before he sent his Son to *Connor's* School.——That he did not know where Lord *Altham's* Son dieted or lodged, but believed he lodg'd in some Part of the Neighbourhood, *Kineave* being too far from the School;——Said, he saw Lord *Altham* when he was a Hunting call at the School-Door to see the Boy, but saw no Servant or Footman attending the Boy to School, that the Boy was not then less than six Years old, and wore a Coat, Breeches, and a Hat, and that the Boy continued at School above a Month.—That the School was at the Corner of a Field, and Lord *Altham* used to Hunt there.—That the Boy went by the Name of the young Lord *Altham*, and was so called at the School,——said, that after the Boy left the School, the Witness would go with the Master who was a Fisher on *Saturday's*, to fish at a River near Lord *Altham's* House, and that Lord *Altham* invited the Witness and the School-Master to dine with

with him, and which they did ; and that he saw the Boy at Dinner with them, and that Lord *Altham* introduced the Boy as his Son ;——Said, that he could not then distinguish the Difference between lawful and unlawful Children, but that Lord *Altham* called the Boy his Son ;——That Lord *Altham* used to call the Witness by the Name of *Lally*, the Witness frequently hunting with Lord *Altham*, and one Day said to the Witness, *Lally*, I hope you will see that Boy, the Earl of *Anglesea*, and the Boy was then riding with the Lord *Altham*,——And further said, that that Boy was taken to be the Lord *Altham*'s Son in the Neighbourhood ;——And being cross examined by the Defendant's Council ;——He said, that before Lord *Altham* quitted *Kineave*, it was reported that Lady *Altham* was from his Lordship for some time, and that that Boy was got in his Lordship's Absence ;——Said, the Boy wore a laced Hat at School, which was the first Time he took Notice of any of the Scholars that wore a laced Hat ; that the Witness was then about Sixteen Years of Age ;——Said, he was examined on a Commission about a Month ago, and the Day before his Examination was shewed a Gentleman called Mr. *Annesley*, and said he never saw him before to his Knowledge :——Said, he never heard the Child called *Jemmy Landee*, or any other Name, but Lord *Altham*'s Son ; that the Witness was married in the Year 1730,——Said in the Year 1723, he went into *France* after he had left the School, believ'd he must be Seventeen Years old when he first saw Lord *Altham*'s Son at School, but could not be certain whether he was Eighteen, Nineteen, Twenty or Twenty-one Years old then, but did not think he was under Sixteen ;——Said, it's reported in the Country that he the Witness was born in the Year 1700 ;——Said, that after the Witness left *Connor's* School, he went to one *Ward's* School at *Naas* to learn the Mathematicks, but how long that was before he went to *France* he could not recollect ;——Said, that according to the best of his Recollection he was Sixteen Years old when he saw the Boy called Lord *Altham*'s Son.

Lord Chief Baron. Witness are you sure that the Boy you saw at *Connor's* School and afterwards at *Kineave* was the Boy called Lord *Altham*'s Son ?

Witness. I am sure he was.

Lord Chief Baron. Witness are you sure that he is the same Boy that Lord *Altham* acknowledged to be his Son.

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Witness.

Witness. I am sure he was the same Person.

James Walch. Gentleman, who being sworn and examined, — said, he knew both Lord and Lady *Altham*; — said, that on some Dispute or Misunderstanding between Lord and Lady *Altham*, that Lady *Altham* went to his Father-in-Law's House *Richard Butler's* to *Ross*, that when she came there she was under a great Concern, and being seated in the Parlour, the Witness was present when his Mother *Mrs. Butler*, asked her Ladyship what was the Occasion of her being so much afflicted and in Grief, Lady *Altham* replied, that her Lord had used her ill, and that she did not deserve it from him, and her Ladyship then said, that if it was not for two Considerations she had, her Heart would break, and then named the Considerations, the first was, that she had an indulgent Father, the Duke of *Buckingham*, and the next was, that she had a Son, that in Time she hoped in God, would be a great Help to her in her old Days; could not directly say, that he saw that Child, for that he lived in the County of *Kilkenny*, and went only now and then to see his Mother; — said, the above Discourse was about Twenty seven or Twenty-eight Years ago, that he then lived at *Clen-downey* about six Miles from *Ross*, but did not then live at *Ross*; that he was the Son of *Mrs. Butler* by her first Husband; — And being cross examined by the Defendant's Council, — said, it was not then doubted but that Lady *Altham* had a Son: — said, the People present at the said Discourse, was *Mrs. Butler* his Mother, the Witness, and his Wife; that he thinks it was on a *Sunday*, and the Day of the Separation, and believed he was told that the Child was at *Ross*, and supposed that it was when the Child was at nurse, thinks the Child was nursed at *Dunmeau*, and not at *Ross*, being told so by the People in the Country; and was told that the Child was brought to *Ross*, when a Year old, two Years old, and three Years old, that he did not know *Joan Landee*; — said, he was at *Ross* when Lady *Altham* came there, that he saw her alight out of her Chair, and handed her then out, and to the best of his Knowledge she came in a Chair, and thinks it was a Single Horse Chair, and did not know that any Body came with her, — said, he fancied that Lady *Altham* had a Maid there, and believed her Name was *Heath*, but whether she was present at the foregoing Discourse he knew not, that Lady *Altham* came there before Dinner, that he thinks a Woman was in the Chair with Lady *Altham* when she came to *Ross*, that he saw her Ladyship several Times after at *Ross*, and that she often spoke of her Son, in the same Way.

as he mentioned on his Original Examination; that the Witness staid three Days at *Ross* that Time, and that Mrs. *Butler* was in the Room when Lady *Altham* came there; that his Mother Mrs. *Butler* is dead, did not remember that Lady *Altham* mentioned what was the ill Usage she received from her Lord, that Lady *Altham* din'd that Day in *Ross* at Mr. *Butler*'s and that no body were present, or at Dinner, but Mr. *Butler*, his Wife, and the Witness and his Wife; and that Lady *Altham* staid there several Months before she removed from Mr. *Butler*'s House; and being desired by the Defendant's Council to assign his Reasons for Lady *Altham*'s going to his Mother's, the Witness did it in the following Manner.

First, that his Stepfather Mr. *Butler* had Affairs then depending in *England*, and that the Duke of *Buckingham* was his great Friend.

Secondly, that there was a great Intimacy in that Family.

And thirdly, that she might be entertained there as a Friend; and that the usual Time of dining was between Twelve and One o'Clock, and that Lady *Altham* came there before Dinner.

James Cavenagh, Gentleman, who being sworn and examined,—said, that he knew *Arthur* late Lord *Altham* and became first acquainted with his Lordship at *Carrickduff*, in the County of *Carlow*, in the Year 1721 or 1722, or thereabouts and became acquainted with his Lordship as a Neighbour, the Witness living within a Mile and a Half of *Carrickduff*-House; that Lord *Altham* lived there for about a Year and a Half or two Years, during which Time his Lordship had an only Child a Son there, called *James Annesley*, that the Witness often saw the Child there, and lived in the House with his Father, the Witness having gone there as a Neighbour, and that he used to visit his Lordship once or twice in a Week, when his Affairs would permit him; and that Lord *Altham* used his Son with as much Respect, as any Man would use his Son, and that he never heard any Doubt made of the Child's Legitimacy; that one Day Lord *Altham* had the Child by the Hand, that the Witness had Discourse with his Lordship, about the Child, which was, that in the said Discourse the Witness said to his Lordship, this is growing a fine Boy, and hoped his Lordship would take care of his Education.

Lord *Altham* then said he had a Tutor in the House for him, and added that he hoped the Witness would live one Day or other to see that Child Earl of *Anglesea*, that the Witness then looked upon the Child to be Eight or Nine Years old, and that during the Time Lord *Altham* lived at *Carrickduff* he held a Neighbourhood,

Neighbourhood, and carried his Child with him, and brought him to the Witness's House, and on such Visits the Child was treated as Lord *Altham's* Son, and that he did not see the Child after Lord *Altham* left *Carrickduff*, and believed that Lord *Altham* went to live at *Carrickduff* in the Year 1721, and staid there a Year and an Half or Two Years, and being cross examined by the Defendant's Council, — said, he never heard the Child reputed a Bastard, till after he came to sue for the Estate, that he never heard of any Separation between Lord and Lady *Altham* nor did he know her, and believed the Child was Seven Years old at the Year 1721, but did not trouble himself about the Tutor, and said the Reason he enquired about the Education of the Child, was that he had a Fondness for Lord *Altham* and the Child, for that he had made a strict and firm Acquaintance with his Lordship, and had a great Value for him, and said he knew nothing of the *South Sea* Troubles, nor did he know from what Place the Lord *Altham* came before his Lordship came to live at *Carrickduff*, and his Acquaintance with him was, that he went to visit Lord *Altham* as a Gentleman, and that his Lordship visited at Mr. *Charles Byrne's*, Mr. *Matthew Derinsey's*, and Mr. *Bridge's*, and that he saw Mr. *Byrne* at *Carrickduff*, and his Reason for knowing that them Gentlemen visited Lord *Altham* and he them, was that they were oftener together, than any other of the Neighbours; and that he would not sware to Lord *Altham's* carrying the Child to any particular Houses, but the Witness's own House, bnt said, he saw them go about publicly, and heard that Lord *Altham* lived at *Mountain Grange* before he went to live at *Carrickduff*, but that the Witness never saw his Lordship at *Mountain Grange*.

James Dempsey, who being sworn and examined said, that he knew the late Lord *Altham*, and knew him at *Carrickduff*, in the Year 1721, and that his Lordship had a Son there by all the Circumstances that the Witness could see; that one *Thomas Owens* came to the Witness from Lord *Altham*, that he, the Witness should take Care of that Child; said, that he went to Lord *Altham*, and his Lordship agreed to give him Eight Pounds a Year to take Care of the Child in the Quality of a Schoolmaster, and that the Witness was to live in his Lordship's House; said that he accordingly went into the House, and taught, and took Care of the Child for Half a Year; that the Witness had an Offer of Teaching other Gentlemens Childr en if he kept a School abroad; that the Lord *Altham* gave him Leave for that Purpose; and accordingly the Witness set up a School, about Half a Mile from the House of *Dunmeau*, and that

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that Lord *Altham* sent the Child there to School, with a Servant to attend him, and the Child was called there, the Young Lord and that his Father introduc'd him to all Companies as his Lordship's Son, that the Child was kept as his Lordship's Son : He had a Suit of Scarlet for his Drefs, and a Brown Fullian Suit for his Common Drefs, and that the Witness was the Child's Tutor for One Year and an Half ; that he did not teach the Child any *Latin*, but to read, and that the Child was then about Six or Seven Years of Age, when Lord *Altham* came to live at *Carrickduff* ; said, he saw the Person called the Lord *Altham's* Son about Twelve Months ago, at a Place called *Hackettstowne*, in the County of *Carlow*, the Witness living then in that Town ; that Mr. *James Annesley*, Lord *Altham's* Son, coming from *Gowry*, call'd at *Hackettstowne*, and that the Witness was then in the House, where he and his Company alight ; and hearing that the Witness was in the House, he was sent for, and went into a Room, where Six or Seven Persons were. The Witness was asked, if he knew any Person in the Room ? He looked about him, and pitched upon *James Annesley* ; out of the Six or Seven Persons then present, and that he kissed Mr. *Annesley* and said, he the Witness had not then any Knowledge or Intimation of Mr. *Annesley* being in the Kingdom, and that if he had, he would have gone to see him.

The Witness was desired to look round the Court, and to see if he saw Mr. *Annesley*. The Witness looked, and put his Hand on Mr. *Annesley*, and then swore he was the very same Gentleman that Lord *Altham* put to him as his Lordship's Son ; and that he heard, that Mr. *Annesley* had been transported Fifteen or Sixteen Years ago ; and that he was in Company with Mr. *Annesley* and the other Gentlemen above an Hour, had no particular Discourse with them, but Mr. *Annesley* said ; he had underwent great Hardships.

The Witness being cross examined, by the Defendant's Council, said, he never saw Mr. *Annesley* from the Time he left *Carrickduff*, until he saw him at *Hackettstowne* ; said, when the Company came to *Hackettstowne*, the Witness was in the House of *Lawrence Cullen* eating a Beef-stake, and had no Intimation of their coming ; said, it was Mr. *Mac Kircher* sent for him, and believed it was Mr. *Mark Owens* that told Mr. *Mac Kircher*, that the Witness had been Mr. *Annesley's* Tutor ; that *Mark Owens* was very well acquainted with the Witness, and that the said *Owens* lived at *Bunclony*, and that the said *Owens* was well acquainted with Lord *Altham* at *Carrickduff* ; said, the said *Owens* lived near the Place where the Witness lives, and had not seen the said *Owens* for a Year before, nor had

had any Discourse with him about Mr. *Annesley*; that Mr. *Mac Kircher*, Captain *Levinson*, Mr. *Annesley*, the said *Owens*, and some other Persons whom he did not know, were in the Room and present, when he pitch'd upon Mr. *Annesley*, and that no Person spoke to the Witness about Lord *Altham's* Son, or of his being come over, and said, that *Mark Owens* was out of the Rank of the Company, when the Gentlemen were shewn; said, that *Mark Owens* opened the Room Door, and stood behind the same; so that he was not in the Circle of the People that shewed themselves.

Said, he did not know for what Purpose he was sent for into the Room; that the Witness is now about Thirty-seven or Thirty-eight Years of Age, and that he was about Seventeen or Eighteen Years old, when he was sent for by Lord *Altham* to be a Tutor; said, his own Parents were Papists, that he did not then know much of Religion, and did not go either to Church or Mass during the Half-year he was at *Carrickduff*, nor did Lord *Altham* enquire of him what Religion he was of; — said, that *Thompson Gregory* was Servant to Lord *Altham* at *Carrickduff*, during the Time the Witness was in the House, that *Thompson Gregory* saw the Child in the House, but did not see him at the Witnesses School; he heard that the Child was sent to School to one *Tarpes*, a Schoolmaster, after the Witness had quitted *Carrickduff*, he having left *Carrickduff* before the Lord *Altham* left it. And the Witness being asked, whether he took any Profession on him since? — The Question was objected to by the Plaintiff's Council, as being improper, because the Witness was not to criminate himself. The Court declared that Question was not to be answer'd, unless the Witness was willing to answer it. The Witness would not answer that Question. And being further examin'd, said, he knew Mr. *Francis Thornhill*, Mr. *Paul's* Agent, and had some Conversation with him about Mr. *Annesley* half a Year after he saw Mr. *Mac Kircher* at *Hackettstowne*, and said he never saw or heard of Mr. *Mac Kircher* since he saw him at *Hackettstowne*, until this Day Sevensnight, nor did he see *Mark Owens* since that Time until this Day Sevensnight, nor did he see *Mark Owens* since that Time until last Monday Night, and that he never was sworn or examined as a Witness for Mr. *Annesley* in any Cause; — said, he could not remember that he ever had any Conversation with *Mark Owens* about the Tuition of Mr. *Annesley*, but had some Discourse with Mr. *Mac Kircher* at *Hackettstowne* about it; that when the Plaintiff went to School to him, he wore his own Hair, and that it was Flaxen, but whether the Plaintiff wore his own Hair, or a Wigg, when he was at *Hackettstowne* he

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he knew not, but believed it was a Wigg; that he had no Occasion to take so much Notice of him then, he well knowing Mr. *Annesley's* Face; did not know whether Mr. *Annesley* had the Small-Pox or not; that, he the Witness, after he left *Carrickduff*, went to School to one *Hughes*, and learn'd the Odes of *Horace*, and said there was a Protestant Schoolmaster at *Enicorthy*, within eight Miles of *Carrickduff*.

Charles Byrne, Esq; who being sworn and examined, said, that he knew *Arthur*, late Lord *Altham* at *Carrickduff* in the County of *Carlow*, in the Years 1721 and 1722, that the Witness lived within Three or Four Miles of that Place, that Lord *Altham* had a Youth there which he called his Child, and called him Master *Annesley*, and frequently saw the Youth there, and that Lord *Altham* owned him as his Child and was very fond of him, and knew him for above a Year there;—said, Lord *Altham* with his Son visited at the Witness's and other Neighbours Houses, and remembers him at Mr. *Redmond's* House visiting with a Feather in his Hat;—said, that he brought the Child to the Witness's House, and was introduced to his Wife and Family as his Son, and said, if the best Duke in *England* had brought a Bastard-Son to the Witness's Table, he would cut his Nose, but said Lord *Altham* always declared the Child to be his Son, and that he brought the Child to *Redmond's* House the Boy had a Hat and Feather, and the young Gentleman was drank to, that he might be Lord *Anglesea*. At which Lord *Altham* returned the Company Thanks; and at that Time the Child was about Seven or Eight Years old; the Lord *Altham* used to bring the Child to Hurlings on a little Horse: said, he did not see Mr. *Annesley* untill last Night, but could not frame any Knowledge of him, and being introduced to him and on seeing him he was struck with something which induced him to believe he was the same Person he saw at *Carrickduff*, and visiting with Lord *Altham*;—said, that if he had not been introduced to Mr. *Annesley* and had seen him in any other Place, without being introduced, he would not know him no more than the King of *Morocco*, nor could he, as he believed, know his own Child if he was abroad so long from him.

Charles Cavenagh, who being sworn and examined, said, he knew *Arthur*, late Lord *Altham*, when he liv'd at *Carrickduff*, in the County of *Carlow*, and that Lord *Altham* had a Child there about six or seven Years old, and that Lord *Altham* called him his Child, but did not hear his Lordship say, that the Child would

would come to any high Dignity, and only heard the Servants call the Child, Master *James*.

Nicholas Duff, who being sworn and examined, said, that he knew *Arthur*, late Lord *Altham*, in Queen *Anne's* Time, and when his Lordship lodged in *Essex street*, and knew him about Twenty one Years ago when he lodg'd in *Cross-lane*, in the City of *Dublin*, but could not tell from whence his Lordship came, but that his Lordship lodg'd at Mr. *Turner's* and that Mr. *James Annesley* was there with him, and that he was provided with every thing, and was used as any Lord's Son should be, and believed he was Lord *Altham's* own Son, from his Lordship's once saying, that the Witness lived in *Loftus's-lane*, and sold Liquor to Lord *Altham*, that the Witness went one Day to see Lord *Altham*, and met his Lordship and the Child standing at the Door, and having some Discourse with his Lordship, his Lordship said to the Witness, *Duff*, if I live to be Earl of *Anglesea*, this Child will be Lord *Altham*, that the Child went to School in *Proper-lane* to *Daniel Carty*, School-master, and that the Witness had two Sons at the same School, and said, that Lord *Altham's* Servant in a Livery attended the Child to School; said, the Child was then about eight Years of Age, and was call'd Master *James Annesley*; said, he believed Lord *Altham* lived in *Cross-lane* about a Year, but that his Lordship was not then in great Circumstances; said, he knew Miss *Gregory*, for that she would often come to his House in Company with *Betty Leyster*, a Butcher's Daughter, and that Lord *Altham* and Miss *Gregory* lodged in her Father's House, whose Name was *Turner*; — said, the Child was always taken and so acknowledged by every Body to be Lord *Altham's* Son: And further said, that another Time his Lordship said to him, *Duff*, this Boy will be Lord *Altham* and Earl of *Anglesea*; said, by Report, that Lord *Altham* laid with Miss *Gregory* at the House of one *Kelly* in *Loftus's-lane*, but did not know how nearly related Miss *Gregory* was to Lord *Altham*, and that *Carty* kept a Latin School.

This Witness being cross examined by the Defendant's Council; said, he then was a Chair-man and carried a Chair, but now he was a Gentleman, was a Farmer before, and had a Farm from Mr. *Carter*; said, he opens the Door for Mr. *Mac Kircher* to oblige him or Mr. *Annesley*, but has no Wages from them, that he has been acquainted with Mr. *Kircher* a Year, and met the Witness in *London*; said, that having heard that Mr. *Annesley* had returned from Transportation, the Witness went to look for him; said, it was Mr. *Henderson* that told him

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him Mr. *Annesley* was come over, and that the Witness went to look for Mr. *Annesley* at Mr. *Kircher's* in *London*, but did not see him; said, that Mr. *Mac Kircher* now keeps a House in *College-Green Dublin*, and that he does not sweep the Door, but that one *Dogberty* does it; said, he cannot tell what Livery Lord *Altham's* Servants wore at the Time the Boy went to *Carty's* School.

And being asked by the Defendant's Council, how long he has had that Coat then on him at his Examination; The Witness answered, that he had it since he bought it last Spring; and that he had a Farm from Mr. *Carter's* Father, and paid him Fifty Pounds a Year Rent.

Catherine O Neale, who being sworn and examined, said, she knew the late Lord *Altham*, that she was employed by him as a Servant to take care of his Son at *Carrickduff*, in the County of *Carlow*, about Twenty-two or Twenty-three Years ago; said, she waited on him a Year there, and the Son's Name was *James*; that afterwards Lord *Altham* went to *Dublin*, and lived at *Cross Lane*, that he sent for the Child to *Carrickduff* to be brought to *Dublin*, and that the Witness came with the Child thither; that the Child was supported and kept as a Lord's Son; said, Miss *Gregory* was at *Carrickduff* when the Witness was hired, and her Name was *Sarah*, and reputed a Relation of Lord *Altham's*, that Miss *Gregory* lived with his Lordship in *Dublin* as a Companion; said, the Child's Birth-night was kept at *Carrickduff*, with Rejoicings and Bonfires, and that the Child was about Eight Years old, when he came to *Dublin*; said, that when Lord *Altham* lived at *Inchicore*, the Boy came to her at *James-street* in this City in a very bad Dress, and desired the Witness to go to Lord *Altham*, to get him something for his Relief, that she accordingly went to Lord *Altham's* and told him in what Condition the Boy was in? To which his Lordship answered, that he paid for his Diet and Lodging, at Mrs. *Cooper's* in *Ship Street* and that Mrs. *Cooper* had complained of him, and untill he grew better, his Lordship would do nothing for him. At which the Witness said to his Lordship, that was only a Contrivance of Miss *Gregory's*; whereupon his Lordship said, that there could be no Peace in the House, for that Miss *Gregory* did not like the Child, or cared for him, and therefore he was sent abroad, heard that Lord *Altham* after he left *Cross-lane* lodged in *Proper-lane*; said, it was Half a Year between the Time she left the Child at *Cross-lane*, and the Time she saw Lord *Altham* at *Inchicore*; said, that after she left the Child in *Dublin*, she went again into the Country, and soon after returned;

ned ; that Lady *Altham* sent her Servant to the Witness to go to her Ladyship ; that she accordingly went to her Ladyship to *Stable-lane*, where she lodged.

Then her Ladyship asked her, how Miss *Gregory* behaved to her son *Jemmy* when at *Carrickduff*? Witness answered, that Miss *Gregory* behaved very well, and as a Relation towards the Child, but how she used him in *Dublin*, she did not know ; says, Lady *Altham* wrote a Letter and sent it by her to Mrs. *Weed*, Lord *Altham*'s House-keeper, who came from *England* with her, that Lady *Altham* said she would willingly see her Son, but for fear the Servants should be turned away and loose their Bread ; says the Boy lived at Mrs. *Cooper*'s when he went to see the Witness to *James-street*, that she asked the Child why he did not go see his Mother? He said, he was in such a Condition he could not ; and that if he did his Father would turn him out of Doors, and do nothing for him, and that this was about Eighteen or Nineteen Years ago ; said, she should know the Child, and that she saw him a little before *Christmas* near Twelve Months at *Linnin-ball-street*, ——— and swore he was the same Person. She was then desir'd to look about the Court, and see if she knew any Person there to be the One she mentioned.

She looked and pointed to Mr. *Annesley*, who was then in Court.

This Witness being cross examined by the Defendant's Council, she contradicted herself as to the Time of seeing the Child in *Dublin*, and of her Conversation with Lady *Altham* ; and said, Lady *Altham* lodged at one *Cavenagh*'s House in *Stable-lane*, but did not know *Cavenagh*'s Christian Name.

John Byrne, Brewer, being sworn to the * *Voire dire*, answer'd the Questions, and being sworn in chief, — said, he had seen *Arthur* late Lord *Altham*, but was not intimately acquainted with him, and that his Lordship lived in *Proper-Lane* in this City about nineteen Years ago : that he knew none of his Family but a Miss that he kept and a little Boy ; and was told that the Child was left in the House at *Proper-Lane* when Lord *Altham* quitted the House. — And that the Child was called Master *James*, that he saw the Child at Lord *Altham*'s Door and Window, and used to run in the Witness's Yard to play ; that he verily believed that the Person he now sees in Court Mr. *Annesley*, is the same that he saw a Boy, and that it was the general Reputation that he was the Lord *Altham*'s Son and Heir, and never heard to the contrary, till he heard he was in the *West-Indies* ; — his Knowledge of him is that he often saw him with the Witness's own Son playing, and verily be-
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believes him to be the same Person, and is strongly of that Knowledge and Belief, from his Physiognomy and Features, and that he was then about eight Years old, and pointed to Mr. *Annesley* then in Court.

And being cross examined by the Defendant's Council, — said, he did not know how long Lord *Altham* lived at *Proper-Lane*, but that he went to live at *Inchicore* after his Lordship left *Proper-Lane*, and left the Boy in the House, and did not see him since the Year 1724; — said, the Boy was in very different Apparel, and was told, that there was a Disagreement between the Boy and Miss *Gregory*, and he quitted his Father's House, — Does not know that the Boy lay in his Stable or Hay-Loft, but often saw him afterwards in the Witness's Yard, and believed his Son gave the Boy some Support, but his Son did not tell him of it.

Lord Chief Baron. You ought to glve some Evidence where this Person was, before you go to prove the Physiognomy of the Man.

Council for the Plaintiff. We would do it, but would not keep Mr. *Byrne* waiting.

Mrs. *Charity Blake*, who being sworn and examined, — said, she knew Lady *Altham*, but never heard from her Ladyship she was with Child, that she was often in Company with her Ladyship at *Temple-Bar* in this City, and it is thirty Years since she saw Lady *Altham*, and the last Time she saw her was about the Troubles in *Scotland*, and when it was reported that the Pretender was in *Scotland*; — That the Witness was then a Maiden, and her Name was *Annesley*, — said, she heard by common Report that Lady *Altham* had a Child, but whether Male or Female she knew not, but never heard it from her Ladyship; — that the Witness was soon after married and lived a-far of, and had no Correspondence with her Ladyship after; said, the Witness's Father having an Affair depending before the House of Lords in this Kingdom, and Lord and Lady *Altham* then being in the Country, she wrote a Letter to his Lordship desiring his Attendance, that she receiv'd an Answer, that either he or his Lady was then ill, and he could not come, but from which of them she receiv'd the Answer, she could not be possitive.

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The foregoing Examination on the Trial, lasted till half an Hour after Ten of the Clock at Night, when the Parties and their Attornies sign'd a Consent for an Adjournment to *Monday Morning*, the 14th of *November 1743*, at Nine o'Clock in the Morning, and the Consent was openly read in Court and order'd to be received, which was accordingly done, and the Court was adjourn'd accordingly.



The Third Day of the TRYAL.

Monday November 14, 1743.

THE Court having sat pursuant to Adjournment, and the Parties, Plaintiff and Defendant, having appeared by their Attornies, and the Jury being called over, they severally appeared, and being together in the Box, the Trial was proceeded on as follows.

Council for the Plaintiff. My Lords, and you Gentlemen of the Jury, from the Necessity of the Plaintiff's Case, we must proceed to the further Examination of Witnesses, and as the Plaintiff's Case was started, and the Witnesses we are to examine are so many, we will take up as little of your Lordship's Time as the Nature of the Case will admit, and therefore we shall call them.

Edward Lutwich, who being sworn and examined, — said, he was a Trooper in Brigadier *Napier's* Horse, and was quartered in *Ross* the Summer before the War was proclaimed against *Spain*, in the Year 1717 or 1718, and knew Lady *Altham* then at *Ross*; — That the Witness being by Trade a Shoemaker, he worked at his Trade, and was recommended to Lady *Altham* to work for her; that her Ladyship sent for him to her Lodgings at one *Wright's*, that he went there, and her Ladyship asked him if he could make her a Pair of Slippers, and Shoes of White Damask

Damask for her, he said he could not do them immediately, whereupon her Ladyship gave him Ten Days to do them; That soon after he was sent for again, and was surprised to be sent for so soon, he went to wait on her Ladyship at the same House, and there saw a Child about Two or Three Years old, her Ladyship asked him if he could make her Child a couple of Pair of Shoes, he said he could, but that he had not then the Leather as one Pair was to be Red and the other Black, — said, she would give him Two Days for the making of them, on which the Witness said in that Time he could have them, that he went away and returned in the Two Days with the Shoes, and on going to the House, he asked if the young Lord was at home, the Maid answered not, but that the Lady was, that Lady *Altham* came to him, and said she would pay for the Shoes, but that the Child went away the Morning before, and added that she had better have been the worst Tradesman's Wife in the Town than Lord *Altham's* for that then she could see her Son, and have him oftner. that he took Measure of the Child he standing at the Window, then gave an Account of the Officers of the Regiment, and described the Town of *Rofs*, — said, he never was at *Dunmeau-house*, but went by it.

And being cross examined by the Defendant's Council, — said, that he was at *Rofs* Ten Months, and would have continued there a Year, but the Troop was called away, — said, when he first went to wait on Lady *Altham* the Child was not there, he was shewn into a Parlour by the Maid Servant, and that the Parlour was on the Left-Hand, that Lady *Altham* came down Stairs to him, he took her Measure, and she gave him the White Damask to make her Shoes and Slippers, and went away, and went there again in two or three Days being sent for, and on his coming the Child was there and a Woman with him, that the Child was about three Years old, and was well dress'd, — said, it was well known in *Rofs* that Lady *Altham* was parted from her Lord, that his Place of Residence is now in *London*, and was last in the Life-Guards there; and that he now has a small Freehold in *Suffolk*, and works for the Speaker of the House of Commons in *England*; that he has been three Weeks in this Kingdom, and has known Mr. *Kircher* since the Trial of the young Nobleman in *England*, — said, that hearing of that Trial, he was sure, he was the Son of Lady *Altham* that he saw at *Rofs*, and expressly said, that Lady *Altham* said to the Witness, make the Shoes for my Child; said, when at *Rofs*, he worked for Mr. *Loftus*, Miss *Tonge*, and several others, and wrought for the two Troops there, and had Work enough

enough amongst them, that he worked for several others, and said, them that he liked he would work for, and them that he did not like, he would not work for, that he was not at *Ross* or County of *Wexford* since.

Bartholomew Furlong, who being sworn and examined, said, he knew Lord and Lady *Altham* about Thirty Years ago, that the Witness was then employed by some Persons to buy Corn for them, that he met Lord *Altham* a Hunting, who asked the Witness if he did not buy Corn, the Witness answered he did, then said Lord *Altham* buy me Twenty Barrels of Oats for my Horses; that the Witness bought Ten Barrels, and sent them into his Lordship's Stables, and also bought for his Lordship Butter, Cheese, and Bacon.

Said, that about a Year after he went to *Dunmeau*, with Bacon from *Pierce Sutton*, and saw Lady *Altham* there big with Child and ready to Lye-in,—said, that the Witness applied to *Sutton*, to apply to Lord *Altham* to get the nursing of his Lady's Child, for the Witness's Wife;—That *Sutton* desired the Witness to go to Captain *Tench*, and get a Letter writ to Lord *Altham* for that Purpose, that accordingly he got a Letter from Captain *Tench*, went with it to *Dunmeau*, that Lord *Altham* was abroad a Hunting, the Witness waited at the Gate till he returned from Hunting, and gave his Lordship the Letter, who read it; that Lady *Altham* coming out to meet his Lordship, his Lordship gave her the Letter, and said this is from Captain *Tench*, recommending the Bearer to your Nursing, that Lady *Altham* made Answer, she would do any thing to oblige Captain *Tench*, that her Ladyship asked the Witness if his Wife was a young Woman, the Witness said she was, then her Ladyship said she would have her, if Doctor *Brown* of *Ross* liked the Witness's Wife, and asked the Witness what Wages he would have, the Witness answered ten Pounds a Year; her Ladyship said that is too much, for that the Person who is to nurse for her, must live in the Town with her Ladyship, Lord *Altham* said, he would give Six Pounds a Year, Two Acres of Land, and build him a House, and Lady *Altham* said she would give him Twenty Shillings more, and on that her Ladyship gave the Witness an *English* Half Crown,—said, when he went home he told his Wife thereof, and bid her wait on Lady *Altham*; that the Witness went to *Waterford*, and on his Return home, his Wife told him that in his Absence, she waited on Lady *Altham* at *Dunmeau*, and that Dr. *Browne* was there, that he examined her and found her Milk bad, and requir'd

quir'd of her the Cause, ——— said, she believed it was occasioned by her own Child's being taken ill before.

Said, he went often to Lord *Altham's* House after, and saw Lady *Altham*, who said to the Witnesses that she was sorry that Doctor *Brown* had found Fault with his Wife's Milk, ——— said, he did not know, but by the Report in the Neighbourhood, that Lady *Altham* was brought to bed of a Son; ——— said, that about a Year and an half after he went to *Dunmeau*, saw Lady *Altham* with the Child, holding him by the Leading-Strings, that a Woman came there with young Chickens to sell, took off a Cloath that covered the Basket, and took out a live Chicken, and the Child cried for it, and Lady *Altham* desired the Witnesses to give the Child the Chicken, which the Witnesses did, that Lord *Altham* came out and said to his Lady, what Delight the Child takes in the Chicken, on that his Lordship stooped and kissed the Child, ——— said the Child was called *Jemmy*.

And being cross examined by the Defendant's Council, ——— The Witnesses said, he is Fifty-three Years old, had three Children, and was married Twenty-three Years; ——— said, his Wife was two Months brought to bed before he applied for the nursing, and to the best of his Knowledge, the Application was in *February* or *March*, that his Son was born before then, but how long he could not tell, believed his Son was born in *April* or *May*, but could not justly tell when he applied for the nursing, nor whether it was in *February* or *March*.

And being further examined, ——— said, it was about that Time ——— And that his Child was better than a Month old when he applied for the nursing, that *Pierce Sutton* is dead and was sorry for it, and that *Sutton* lived about two or three Miles from *Dunmeau*, and that the Witnesses lived about the same Distance, but *Sutton* lived nearest; that *Sutton* was acquainted with Lord *Altham* and sold Corn. ——— Could not tell whether Lord *Altham* wore his own Hair or a Wig, but that he was a low small Man, and that Lady *Altham* was taller than his Lordship, she being a tall Woman, with good Complexion and Features, and being ask'd what he meant by Complexion, he said the Colour of her Face not very white nor fair, but a little red, that his own Wife is alive and a brown Woman, that her Ladyship was of a brown Complexion and somewhat towards black, and that her Ladyship had more white than his Wife, and thought her Ladyship handsome, but that his own Wife was more pleasing to him.

Said,

Said, he knew *Doctor Brown*, and that he is dead, b
how long he knew not, he living out of the Country ; said I.
did not speak to *Dr. Brown* about his Wife, that he had got
four Shillings and Six-pence a Barrel for Oats, and that *Lord*
Altham paid the Money as soon as the Oats was deliver'd ; said,
he made the Agreement for the nursing both with the Lord and
Lady Altham, and that her Ladyship gave him the English
Half-Crown on the Bargain ; — said, that *Captain Tench*
is not alive that gave him the Letter, nor was there any Person
present, when he gave the Letter to *Lord Altham*, — he
having just come from Hunting ; — said, the Child cried
for the Chicken, it having ran away from him. *Lord Altham*
said, *Jemmy* don't cry, and then kissed him, that the Child did
not speak, but stretched out his Arm and cried.

The Right Honourable *Hugh Montgomery*, Earl of *Mount*
Alexander, who being sworn and examined, said, he knew
Arthur late *Lord Altham*, that *Lord Mount Alexander*, the
Lord Altham, and *Captain Grove* was one Night eating Oys-
ters together : And *Lord Altham* said to *Grove*, By Gad my
Wife has got a Son, that will make my Brother's Nose swell.
And *Lord Mount Alexander* said, upon his Oath and Honour,
Lord Altham said them Words in his Presence, at one *Sprigg's*
House on the *Glibb*, but did not know the certain Time.

His Lordship being cross examined by the Defendant's Coun-
cil, said, he never heard that *Lord Altham* had a Bastard, nor
never knew or heard of any Separation between Lord and La-
dy *Altham*, or did he visit them ; said, the aforesaid Persons
met almost every other Night together at *Sprigg's* House and
eat Oysters, and believ'd it was about Winter they met ; and
had no other Conversation about *Lord Altham's* having a Son ;
that they had met about a Fornight before the Time *Lord Al-*
tham had made that Expression, but did not hear *Lord Altham*
say any thing of it before, and did not remember to have seen
Lord Altham after at *Sprigg's*, or hear him say any other Thing
of his Son.

Margaret Hodgers, being sworn and examined, said, she
knew Lord and Lady *Altham*, and saw her Ladyship once at
Mr. King's the Apothecary in *Charles-street*, in the Year 1723,
said, she lived near it on *Ormond Quay* ; said, some Person
came to her House to take Lodgings for Lady *Altham*, that
they agreed with her for Sixteen or Seventeen Pounds a-year to
board and lodge Lady *Altham*, and was proud to have a Lady
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with her, being a single Woman; said, it was a Man and the Lady Altham that made the Agreement with her, gave her a Pistole Earnest, and Lady Altham was to go there the next Day; said, the next Day, the Man came to her, and told her that the Lady was under the Doctor's Hands, — and advised her Ladyship not to stir, for the Air on Ormond Quay was too sharp for her Ladyship: — On that the Witness gave him back the Pistole, which she had received as Earnest; said, that having called on Mrs. Loyd, a Neighbour on Ormond Quay, she told Mrs. Loyd how she was served after getting her House in Order, and that she gave back the Earnest. On which Mrs. Loyd desir'd the Witness to go to Lady Altham and know the Truth of it — that she went to Mr. King's House, went up Stairs to her Ladyship's Room, and went in, — that Lady Altham was sitting being weak in her Limbs, that she told her Ladyship how she had been treated, — Lady Altham begged the Witness's Pardon for not stirring, she being so weak. That they afterwards fell into a Chat, as the Witness being an English Woman; that Lady Altham asked the Witness her Reason for coming to Ireland; she said, it was to get Money; that Lady Altham wish'd her better Luck than she had, for that a Misunderstanding was between her and her Lord, and wish'd she never came into this Kingdom. Upon which the Witness asked her Ladyship, if she had any Children? — Her Ladyship answer'd, she had a Son; said, the Woman that took the Lodgings of her was Mrs. Heath.

The Witness being cross examined by the Defendant's Council, — said, she never saw Lady Altham before or since; — that the Witness came into the Kingdom in the Year 1720, and has been here ever since, and now lives within half a Mile of Lord Hoath's, and has the Honour often to dine with Lord and Lady Hoath, that she knows not whether Mr. King be living or dead, and that he liv'd in Charles-street; — said, she did not know whether the Woman she had the Discourse with at Mr. King's was the Lady Altham or not, but what she heard and was told by the Maid.

The Witness being desir'd to describe the Features of Lady Altham, she said, as far as she could judge by her sitting, she was a tall Woman, and of a swarthy Complexion, and said no Person was present at their Discourse.

Thomas Byrne, Brewer, being sworn to the *Voire dire*, answered the Questions, — and being sworn in Chief, and examined, said, that he saw the late Lord Altham several times in Proper-lane Nineteen or Twenty Years ago, and remembers

Said, he knew Doctor *Brown*, and that he is dead, but how long he knew not, he living out of the Country ; said he did not speak to Dr. *Brown* about his Wife, that he had got four Shillings and Six-pence a Barrel for Oats, and that Lord *Altham* paid the Money as soon as the Oats was deliver'd ; said, he made the Agreement for the nursing both with the Lord and Lady *Altham*, and that her Ladyship gave him the English Half-Crown on the Bargain ; — said, that Captain *Tench* is not alive that gave him the Letter, nor was there any Person present, when he gave the Letter to Lord *Altham*, — he having just come from Hunting ; — said, the Child cried for the Chicken, it having ran away from him. Lord *Altham* said, *Jemmy* don't cry, and then kissed him, that the Child did not speak, but stretched out his Arm and cried.

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The Witness being desir'd to describe the Features of Lady Altham, she said, as far as she could judge by her sitting, she was a tall Woman, and of a swarthy Complexion, and said no Person was present at their Discourse.

Thomas Byrne, Brewer, being sworn to the *Voire dire*, answered the Questions, — and being sworn in Chief, and examined, said, that he saw the late Lord Altham several times in Proper-lane Nineteen or Twenty Years ago, and remembers

that his Lordship left *Proper-lane* in the Year 1724 ; — *Altham* had a Boy there, who was reputed his Lordship's, said, his Reason for knowing the Boy was, that they often lay together, and that the Witness's Father lived in that neighbourhood ; and his Reason for being so particular as to the Time when Lord *Altham* left *Proper-lane*, was, that the Witness's Father *John Byrne* returned that Year from the Country to *Dublin* ; said, they did not go to School together, for that the Witness went to School at the Cloysters, but that Lord *Altham*'s Son went to School to one *Carty* in *Proper-lane*, and that he often called on Lord *Altham*'s Son at School ; that Lord *Altham* lived in *Proper-lane*, and that the Boy lived in the House with his Lordship ; said, he never saw Lord *Altham*, or the Boy together, but once, which was when the Witness and the Boy was playing together in the Street ; that Lord *Altham* called the Boy, and said, *Jemmy* come in, and bring Master *Byrne* with you, and they went in together ; — said, that when Lord *Altham* left *Proper-lane*, he left his Son there ; that soon after the said Boy came to take his Leave of the Witness and told the Witness that Lord *Altham* was sending him to Mr. *Cavennagh*'s, a Dancing Master, that he might put him out to lodge and board ; said, that the Boy was two or three Years younger then the Witness ; that, in some short Time after, the Boy came to the Witness and told him, that he the Boy had been very ill used, where he was put, and that he the Boy would stay there no longer, and that Mr. *Cavennagh* had turn'd him out of Doors ; that thereupon the Witness desired the Boy to go to *Inchicore* to his Father the Lord *Altham*. The Boy said, he would not ; for that one Mrs. *Gregory* who was there, would never let him alone. And therefore the Witness could not at that time prevail on the Boy to go to his Father. Upon which the Witness desired the Boy to stay with him, as long as he pleased ; said, the Boy staid with him about five or six Weeks, and that when the Witness's Father was not in Town, but the Witness at home by himself, the Boy would lie with him in one Bed : And that when the Witness's Father was in Town, and at home, the Boy lay in the Witness's Father's Hay-loft ; said, the Reason for the Boy's lying in the Hay-loft, when his Father was in Town, was this, that his Father had no Family in Town, that the Witness lay in a Closet within his Father's Room, and could not get the Boy in ; said, he gave the Boy Meat and Drink from the Intimacy and Friendship they had contracted as Play-fellows ; — said, Lord *Altham* nor any of his Lordship's Family took then any Care of

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Boy, nor did they know where he was, to the Knowledge or Belief of the Witness; — said, the Boy grew tired of staying with the Witness, after the Manner he was. And the Boy said he would go home to his Father's to *Inchicore*; said when the Boy went first to live in *Proper-Lane* at his Father's, Lord *Altham's* House, the Boy was very well dress'd in Scarlet; — said, all the best young Boys in the Neighbourhood were fond of Lord *Altham's* Son, who were Captain *Eam's* Son, two Sons of *Robert Byrne* the Brewer, the Son of one *Reily* another Brewer, and two Sons of one *Reily* where the Witness lodged and boarded, when the Witness's Father was abroad and in the Country before he came to Town; said he never saw the Boy from the Time he said he would go home to his Father's to *Inchicore*, until he returned into this Kingdom; said he was in the *Globe* Coffee-house about a Year ago, that Mr. *Matthews* the Brewer, invited the Witness to dine with him on the Morrow. The Witness said he would, that the next Day he met the said *Matthews* and the Witness after Change-Time. They called for a Coach, and bid the Coachman drive to *Jervis-Street*, to the House of one *Moor*, an Apothecary, said, that when they came there, they all went into the House, and was shewed up to a Dining-Room, that they had not been long there, when Mr. *Mac Kircher* came into the Room, that he never saw Mr. *Mac Kircher* before, that Mr. *Kircher* saluted the Company, and said Mr. *Matthews* and the Witness's Father were acquainted with Mr. *Kircher*; that Mr. *Kircher* spoke very civilly to them, and soon after three more Gentlemen came into the Room; said, that after the Gentlemen were come in, Mr. *Matthews* called to the Witness, and said to him, *Tom*, do you know any of these Gentlemens Faces, the Witness looked at them, and said he knew none of them, but Mr. *Annesley*, and then said he knew him when a Boy at Lord *Altham's* in *Proper-Lane*; said, before he went to *Jervis-Street*, he said, he heard that Mr. *Annesley* had returned to *Ireland*, but that he had not seen him before, and said he had not any Conversation with Mr. *Matthews*, or with his the Witness's Father about it, nor did he know, nor was he told where Mr. *Annesley* lodged, and that Mr. *Annesley* was then but about two Days come over to *Dublin*, and that Mr. *Matthews* lived on *Usher's Quay*; said, he heard the Night before that Mr. *Matthews* and his Company that came over with him from *England* were in *Crane-Lane*, and was told at the Coffee-house the next Morning, that they had sent for the Witness, and that they wanted him. Said, he knew Mr. *Annesley's* Face, when he saw him,

as perfect as any Face, and swore that Mr. *Annesley*, whom he then saw in Court, was the very same Person he knew when a Boy, and his Play-fellow in *Proper-Lane*.

Cross Examined.

He was ask'd by the Defendant's Council who were the Lord *Altham's* Family in *Proper-Lane*, the Witness said, that Miss *Gregory*, her Father, some Servants, and Lord *Altham's* Son were the Family, and gave the same Account of the Witness's going to School, and the particular Knowledge of Lord *Altham's* Son as on his original Examination; said, that it was reported in the Neighbourhood that Mr. *Annesley* was Lord *Altham's* Son; ——— said, he did not know what Scholars were at *Carty's* School, the Witness not being at or going to that School as a Scholar; ——— said, he was but once at Lord *Altham's* House, and that at the Time when the Witness and Lord *Altham's* Son were playing at Marbles, and believed he was then three Years younger than the Witness; ——— said, that Lord *Altham* lived at *Inchicore* after living in *Proper-Lane* for one Year, and that the Boy was left there in the House with a Maid-servant and a Boy-servant; said, he did not see the Boy for five or six Months after he took his Leave of him to be boarded by *Cavenagh*; said, he never talked with the Boy about his Mother, nor did the Boy ever tell the Witness or talk about his Mother at all, or whom she was.

The Witness farther said, he always look'd upon himself to be about three Years older than Mr. *Annesley*, and that it was about the latter End of the Year 1724, that Lord *Altham* left *Proper-Lane*.

Michael Waldron, Gentleman, one of the Attornies of the Court of Exchequer, who being sworn and examined, said, he saw the late Lord *Altham*, that he saw a Child of his that went to School in *Warborough Street*, to one *Dunn*, and that the Child went under the Name of Lord *Altham's* Son, but how many Years ago it is since, he could not remember, that he was then about ten or eleven Years old; that the Witness went to *Dunn's* School for two Years, and that Lord *Altham's* Son was there in that Time about half a Year, but did not know where Lord *Altham's* Son then lodged, but heard it was in *Sheep-street*; ——— said, that Mr. *Cavenagh* the Dancing-Master's Son went to the same School, that Lord *Altham's* Son was call'd the young Lord; ——— said, that when the Master would correct Lady *Altham's* Son, he would say, that if he was a Duke's Son, let alone a Lord's, he would correct him; that the Witness
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went with his Sister to *Cavenagh's* dancing School, and saw the Boy there that went with him to *Dunn's* School.

Cross Examined.

Said, that on hearing Mr. *Annesley* was come here, he went to him, but would not take upon him to say he is the same Person that he saw at *Dunn* or *Cavenagh's* School.

Barnarby Dunn, School-Master, who being sworn and examined ; — said, that he was a School-Master in *Blue-boar Alley* in *Warborough street*, in the Year 1724 ; that Master *James Annesley* was put to him to School, as the Son of Lord *Altham*, by *Cavenagh* the Dancing Master, and was at his School for eight or nine Months ; — said, that when *Cavenagh* put Master *Annesley* to his School he recommended him thus : As you regard me, take care of this young Gentleman as he is the Lord *Altham's* Son ; said, that he the Witness was afterwards introduced to Lord *Altham* by *Cavenagh*, at the said *Cavenagh's* House, that Lord *Altham* said to the Witness, I have had a good Character of you for instructing of Youth, I have sent my Son or Child to you, take care of him and you shall be rewarded ; said, that Mr. *Waldron* the Attorney wrote the Witness a Letter to come up to *Dublin*, and repeated the Words of the Letter, to come up without Delay ; said, that when he came to Town he went to Mr. *Waldron's* Lodgings, that *Waldron* kissed him and said he was welcome ; said, that on some Discourse with *Waldron*, he asked the Witness, if he did not remember Mr. *Annesley* Lord *Altham's* Son that went to School to him ? The Witness answered he did, and said to *Waldron* that he went to School to him at the same time ; that they agreed to go and see Mr. *Annesley*, and accordingly they both went to *College-green* where Mr. *Annesley* lived, and being there for some Time, Mr. *Mac Kircher* and Mr. *Annesley* came into the Room to them, and asked the Witness that he would have for Breakfast, that they drank Tea ; said, that on the first View he saw of Mr. *Annesley* he recollected him, and knew him from an Observation he had of his Eyes, when he went to his School of having something of a Cast in them ; he pointed to Mr. *Annesley* then in Court, and swore he was the same Person, and that from the Recollection he had of him when a School Boy, and was then about ten Years old, and further said, that by Virtue of his Oath, and if he was a dying Man, that Mr. *Annesley* then in Court was the very same Person to the best of his Memory and Recollection.

Cross

Cross Examined.

By the Defendant's Council ; said, that at the Time Lord *Altham's* Son went first to his School, the Witness instructed the Lord *Kingsland's* Son, and instructed him five or six Years at his Father's House in *Queen-street* ; said, he had a Note in his Hand whereby he could recollect the Time that Mr. *James Annesley* came first to his School, and said he came to him in *July 1724.* and staid with him till the *Easter* following ; said, no Agreement was made with him for the Schooling, but *Carvenagh* told him he should be well rewarded, but was never paid one Farthing ; said, he knew that Mr. *Annesley* lodged in *Sheep-street*, for that Mr. *Annesley* having absented from School he went to look for him but could not find him, that afterwards he came to School, and that the Witness reprimanded him for his Idleness, and said to him, that if he was Earl of *Anglesea* he would correct him ; said, that he did not learn Mr. *Annesley* Latin but English, and found by him that he was instructed before, and believed he was nine, ten or eleven Years old when he first went to his School, but as to his Age he could not be particular.

Mr. *Thomas Byrne*, called again, and being sworn and examined ; said, that he believ'd it was about *May*, that Mr. *Annesley* came to take his Leave of him as going to board, did not believe he ever saw Mr. *Annesley* striped naked when he lay with him ; believed that the next Time he saw Mr. *Annesley* after was in *November* ; said, that it was early in the Year 1714 about *May* ; that Lord *Altham* left *Proper-lane*, and about *Christmas* following Mr. *Annesley* came to lye with him ; said, that his Father came back from the Country in *October* ; said, Mr. *Annesley* did not from the Time he come to lie with him go to School, but kept in and about his Father's Yard, and might be absent three or four Hours at a time.

Martin Plunkett, who being sworn and examined ; — said, he knew *Arthur* late Lord *Altham* when he lived in *Proper-Lane*, next Door to the Witness's Father in the Year 1723 ; said, his Reason of Acquaintance with his Lordship was, that his Lordship kept a Pack of Dogs, and would go a Hunting with him ; that the Witness was often in his Lordship's House, and saw and knows that his Lordship had a Son, and called him *Jemmy* ; that one Miss *Gregory* was there that used to complain of Master *Annesley* to his Lordship, and that the Witness used to get Pardon from his Lordship for the Child, and that he did the same twice or thrice, and believed the Complaints that were made of the Boy, was for telling Lies, or absenting from School ;

School ; said that both his Lordship and Miss Gregory called the Boy *Jemmy*, but never heard from them that the Boy was Lord *Altham's* Son, but from the Servants in the House ; said the Manner of his excusing the Boy was, that the Witness hoped his Lordship would excuse Master *James*, and I the Witness will be bound for him, and that Miss Gregory was as a Mistress in the House, and any thing she ordered to be done, must be done ; said that Lord *Altham* was harsh to the Child, and it was generally reported in the Neighbourhood that the Child was his Son, and his legitimate and lawful Son, and never heard so much as Master *Annesley's* being said to be a Bastard, till Mr. *Annesley* returned to *England*.

Said that on Mr. *Annesley's* coming to *England*, the Defendant's Wife the Lady *Anglesea* sent for the Witness ; that he went to her Ladyship, and she asked him if he knew of a Bastard Son, that lived with Lord *Altham* in *Proper Lane*, the Witness said he did not, but that he knew a Boy *Jemmy Annesley*, who was Lord *Altham's* reputed Son, that Lord *Anglesea* then said to the Witness, it is he that was the Bastard, and my unfortunate Lord's Son ; to which the Witness replied, and said that was the first Time that he ever heard Master *Annesley* was a Bastard ; said, it was Lady *Anglesea* that first told the Witness that Admiral *Vernon* had sent Mr. *Annesley* home to *England* ; said, he did not see Master *Annesley* from May 1724, till the Month of *October* was twelve Months, and then saw him in a House near *Mary's Church-yard* in this City, where Mr. *Annesley* lodged ; said, that one Mr. *Cooke*, a Linnen Draper, came to the Witness about the above time, and enquired of the Witness if he knew how long the Witness had lived in *Proper-Lane*, the Witness answered for twenty six Years, the said *Cooke* then asked him if he knew Lord *Altham* and his Son *Jemmy* there, the Witness said he did, then *Cooke* told the Witness that Lord *Altham's* Son was come over, and was then in *Dublin*, the Witness said that was the only first Time and Day that he heard Mr. *Annesley* had come over, that *Cooke* asked the Witness if he should know Mr. *Annesley* if he was to see him ; said, it was pretty hard that he should know one for so long a time past. On which, *Cooke* and the Witness agreed to go and see Mr. *Annesley* ; said, as they were going along *Mary's-Lane*, he paused a while within himself, to recollect if he had any Idea of Mr. *Annesley*, and having recollected himself, said to *Cooke*, he would hold a Dozen of Wine he should know him ; that when they came to the House he went into the Room without ever any Person speaking to him, and many People were in Company, the Witness went up directly to Mr. *Annesley*, kissed him, and welcomed him to *Ireland*.

land, and then pointed to Mr. Annesley in Court, and swore he was the very same Man ; said, from the melancholly Posture, the Witness used to see Mr. Annesley in, when Miss *Gregory* would complain of him, gave the Witness such an Idea of him ; that he would know him in *America*.

Cross Examined.

Said, he was well acquainted with Lord *Altham*, that he used to hunt with him ; that his Lordship left *Proper-Lane*, the latter End of *April* or the Beginning of *May* 1724, his Reason for being so particular was, that the Witness on the 25th of *May* 1724, went to *France*, and return'd back in the *August* following, went to visit Lord *Altham* at *Inchicore*, and saw his Lordship there, and that Counsellor *Bradstreet's* Father was then at his Lordship's, that in *September* following, he went again into *France*, and did not return till after *Christmas* ; — said, he never saw the Child at *Inchicore* ; nor did he enquire of Lord *Altham* about him ; nor did he talk to Mr. *Byrne* about Mr. *Annesley* ; said, that he came home from *France* a Week before *Christmas*, in the Year 1724, and that the Witness was then about twenty or twenty-three Years old ; believed if he had not heard of Mr. *Annesley's* being here, and had met him any where else he should have known him, and believed, that any body who saw Mr. *Annesley* about that Time when the Witness knew him first, would know him now.

Then the Defendant's Council said, that all the Defendant's Witnesses will swear the same Thing, as to the Indentity of the Person.

Court. If there be any Occasion to call any more Witnesses to the Indentity, you shall call them hereafter.

Council for the Plaintiff. My Lords, we will now call some Witnesses, to prove in what a Condition Mr. *Annesley* was in, after he was turned away from Mr. *Cavenagh's*.

Amias Busb, Esq; being sworn and examined, said, he remembers that when he was in the College a Student, he saw a Boy about ten or eleven Years old, who got his Subsistence by running of Errants, and was called *Jemmy Annesley*, who gave himself out that he was the Son of Lord *Altham* ; — said, the Impression of the Boy was so strongly in his Memory, that if he was a Limner, he could draw his Face from the Lines thereof, allowing the Difference now between a Man and a Boy ; said, that he saw Mr. *Annesley*, last Night, and knows that he

is the very same Man, and that he attended the Deponent in the College for a Month or two, and intended when he was a Boy to take him down to the Country ; that the Deponent wrote to his Grandfather that such a Person was with him, who went by the Name of the Lord *Altham's* Son, and that he would bring him down to the Country, if he, his Grandfather would permit him ; that the Deponent received for Answer from his Grandfather, that if the Boy was Lord *Altham's* Son, let him take care of him, himself, and on that the Deponent turned the Boy away ; said, that when he saw him last Night the Deponent knew him and saluted him, and said he knew him very well and Mr. *Annesley* said to the Deponent in these Words, *I know you, Sir, and shall never forget your Kindness to me.*

Cross Examined.

Said, the Boy often told him he was Lord and Lady *Altham's* Son ; said, that he often examined the Boy, and told him he was an Impostor, that took on himself that Name to excite Charity, that the Boy gave him such substantial Reasons to the contrary, and the Boy told him, that it was by the Means of a Mistress that his Father kept, that he was turned out of Doors ; said, that if he the Deponent knew so much of the World then, as he did now, he would have sent to Lord *Altham*, tho' he did not know him, about the Boy ; ——— said, the Boy was in the Light of a Scull in the College ; said, the Deponent about the Year 1722 or 1723 entered the College, said there Seven Years, and took his Master's Degree.

Dominick Farrel, who being sworn and examined, said, he knew late Lord *Altham*, that he never had any Discourse with him about Miss *Gregory*, nor was there ever any Application made to him about his Lordship's Son ; said, he had some Discourse with Lord *Altham* about his Son, Mr. *James Annesley*, said, that Mr. *Annesley* came to the Deponent's House, as the Deponent knowing him to be Lord *Altham's* Son from his Infancy, having dealt with Lord *Altham*, that Master *Annesley* was in a Poor Condition, and the Deponent kept him in his House for some Time, and would have kept him longer, but the Deponent's Wife would not let him, because that Lord *Altham* owed the Deponent Six Pounds, and on that delivered Master *Annesley* to one *Purcel*, a Butcher ; said, he went to Lord *Altham's* to *Inchicore*, not only on Account of Master *Annesley* but for the Money his Lordship owed him, that the Deponent told his Lordship in what a poor Condition he had Master *An-*

nesley, in his House, and wanted Money from his Lordship for him ; that Lord *Altham* bid the Deponent take Care of him, and said I will pay you, not only for it, but what I owe you ; said, he knew the Child at *Dunmeau*, and saw him there with Lord and Lady *Altham* when the Child was Half a Year old, and had the Child in his Arms, and that Lord and Lady *Altham* acknowledged the Child to be their Son ; that he had *James Annesley*, in his Arms, in the County of *Kildare*, and that he is the same Boy he saw at *Dunmeau* and saw him afterwards at Lord *Altham*'s House on *St. Stephens-Green*, and knew him in *Proper-lane* at *Carty's* School, and that Lord *Altham* then lived in *Proper-lane* ; said, that Lord *Altham* gave the Deponent for a Reason, when he applied to his Lordship about the Boy at *Inchicore*, that he would have kept him at Home, but that he should have no Peace, for that the Boy and Miss *Gregory* could never agree ; that after the said Discourse with Lord *Altham*, and his Promise to pay the Deponent, he gave Master *Annesley* some small Money to get him something abroad, his Wife not suffering him to keep Master *Annesley* in his House, and that he did not see the Boy for three Weeks after, untill he met the Boy on Horse-back, riding a Horse in *Smithsfeld* ; that the Deponent met *Purcel*, the Butcher, there, and said to *Purcel*, Do you see that Boy on Horse-back, meaning Master *Annesley* ? *Purcel* said he did. Then said the Deponent to *Purcel*, do you think that Boy to be a Lord's Son, and in such Circumstances ? It would be a Charity to take care of him, and then recommended the Boy to *Purcel* to take care of him, because that *Purcel* had but one Son, and said to *Purcel* that one Day or other the Boy would be able to make him Amends ; that *Purcel* said to the Deponent, since you tell me so, I will, that they called the Boy to them, and *Purcel* asked the Boy his Name The Boy said, *James Annesley*. On which the Deponent said to the Boy, *Jemmy*, what have I done to you, that you have not been with me this three Weeks ? That the Boy gave some foolish Excuse.

Then they desired the Boy to leave the Horse at Home, and come to them back again ; said, that *Purcel* took the Boy Home with him, and the Deponent went with him to *Purcel's* House, that when they came to *Purcel's* House, *Purcel* told the Story to his Wife, that she washed the Boy, gave him Cloaths, and put a Shirt of her Son's on him, and put the Boy to lye with her Son, and that the Deponent saw the Child at *Purcel's* after ; said, that *Purcel* is alive, but that his Wife is not ; said, that he was subpoena'd to come up from *Cork* ; that he had a Curiosity to see Mr. *Annesley*, and went to see him on
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College-green ; pointed to Mr. *Annesley* in Court, and swore he was the very same Person ; said, Lord *Altham* was then in very low Circumstances, and owed the Deponent's Brother-in-law three hundred Pounds ; said, when he first knew Lord *Altham* he lived in *Pill-lane*, sold Silk Handkerchiefs and Stockings to Lord *Altham*, both for himself and his Wife, and went down in the Country to get his Money ; said, that it was his Brother-in-law, that kept the Inn where Lord *Altham*'s Horses stood ; that he recommended the Deponent to Lord *Altham* for his Lordship's Custom.

Cross Examined.

Said, in April 1717, he went to *Dunmeau* and saw Lady *Altham*, described her Ladyship to be of a fair Complexion and homely Face ; said, he saw her twice, staid there one Night and went away the next Morning, saw the Child there, and saw Lady *Altham* in the Parlour, and the Child appeared to be a Year and a Half or two Years old, and that the Nurse had him ; said, the Child came into the Room after the Deponent went in ; but did not know the Name of the Nurse, nor whether she was a dry or wet Nurse, and never heard of the Name of the Nurse nor heard of the Name of *Joan Landy* or *Laffan* ; ——— said, he heard of the Separation between Lord and Lady *Altham*, and that in some Months after he was at *Dunmeau*, he heard they had parted ; said, he went to *England* after he came from *Dunmeau*, and that it was after he returned from *England* he heard of the Separation.

Said, he was in *England* several Times from the Year 1715, to 1721 or 1722 four Times a Year ; but the particular Stay he made at each Time, he could not remember ; said, he was in *England* in the Year 1717, but whether in Spring or Autumn he could not recollect ; ——— said, he very seldom missed a Year from going to *England* ; ——— said, in his Thoughts, when he saw the Child at *Kinna* in the County of *Kildare* ; he took him to be four or five Years old ; and believed it was in less than a Year after the Child went there, that he saw him, and the Child was then in Coat and Breeches, — said, the Child had a Tutor at *Kinna*, and the Tutor was called into the Child, to hear him rehearse his Lesson, which was the first Time the Deponent was at *Kinna*, or saw the Child there ; — said, when he saw the Child at *Kinna* the Child was in Petticoats ; that the next Time he saw the Child was at *Stephen's-Green* ; and that the Deponent then kept a Ware-room in *Pill-Lane* ; said, when the Child came to him, the Child was in very bad Cloathing ; — believed the Child was with

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Purcel about a Year, and had the Small-Pox there; that the Deponent did not know how long he staid in *Dublin* before he went to *Cork*, after he saw Mr. *Annesley* in the Small-Pox; but believed it was a Year and an half, and has lived at *Cork* eleven Years this *Christmas*; — said, the Child went to him, before Lord *Altham* went to live at *Inchicore*, and that the Deponent agreed with a Master that kept a Charity School at *Mulian's* Church, to teach Master *Annesley*; — said, he gave Master *Annesley* Money from time to time, for about two or three Months before he went to *Purcel's*, could not be particular as to the Time that Lord *Altham* contracted the Debt with him; that the Deponent not having his Books here; but believed the Debt was due to him a Year and an half before he went to *Dunmeau*.

John Purcel, Butcher, who being sworn and examined; — said, he is a Butcher by Trade, and knows *Dominick Farrel*; that the Witness went to *Smithfield* on *Wednesday* in the Afternoon, and saw the said *Farrel* there, and *Purcel* told the same Thing that *Farrel* did, of meeting the Boy on Horseback in *Smithfield*, calling the Child to them, and then *Purcel* said, he asked the Child, Are you Lord *Altham's* Son? the Child answer'd he was; that thereupon *Purcel* said to the Boy, if you will come home with me, I will take you into my Charge; the Child said he would, and thereupon, the Boy went on his Knees and thanked the Witness; whereupon, the Witness said to the Boy, he should never want; that he took the Child home with him, and recommended the Boy to his Wife: Saying, my dear, I have brought you home a young Lord, and desir'd her to take Care of him; that his Wife combed his Head, washed him, and put Cloaths on him; — said, no-body enquired after the Child. — And the Witness's Wife called the Boy, my Lord; — said, in *September*, after the Child took the Small-Pox at his House, and being recovered, he was standing with the Child in the Kitchen of his own House, and a Gentleman came in, who had a Gun and a Dog, as if coming from Sporting, and asked if he could take Part of a Pot of Beer, the Witness said, yes; that the Witness and the Gentleman sat down together, and having drank a Pot of Beer, the Gentleman asked the Witness, if there was one *Jemmy Annesley* there, the Witness said there was, the Gentleman asked if he could see him, the Witness then called to his Wife and asked the same Question; they both answer'd, that he was not fit to be seen; however, she would bring him; that she brought the Child where they were, that on the Gentleman's seeing the Child, the Gentleman asked;

asked ; *Jemmy* do you know me ? the Child said he did, then who am I ? said the Gentleman, the Child answered, you are my Uncle *Annesley*, on which the Gentleman said he was the Son of Lord *Altham*, and would speak to his Father to make the Witness a Present of something that was handsome, for taking so much Care of the Child ; ——— said the Gentleman told the Witness that the Child was Lord *Altham*'s Son ; that the Witness said to the Gentleman : Please your Honour, since you are Uncle to the Child, please to speak to his Father about him, the Gentleman said he would.

And the Witness being asked, who that Gentleman was, and his Name, the Witness answered, Mr. *Richard Annesley*, now Earl of *Anglesea*, now in Court, was the Person who said the Child was Lord *Altham*'s Son, and that Mr. *Annesley* said further to the Child, *Jemmy*, Honey, how do you do, the Child answered, I am pretty well thank God, that *Richard Annesley* said to the Witness, since you have taken so much Care of the Child, I will tell his Father, the Lord *Altham* of it ; said, that he did not see the Gentleman again, till he met *Richard Annesley* in *Ormond Market* ; said, he heard that Lord *Altham* died in *November 1727*, and that *Richard Annesley* sent a Man to the Witness's House for *James Annesley*.

And being asked how he came to know that Mr. *Richard Annesley* had sent to his House for *James Annesley*, the Witness answered, that *Jemmy Annesley* came to him to the Market, and told him that his Master had sent for the Witness, to let him know that a Person was at the Witness's House, that had come for him (the Child) from his Uncle, that was then at Mr. *Jones*'s House in the Market ; that the Witness asked the Child, why he did not go ? that the Child reply'd, he would not go, for fear his Uncle would use him ill.

Said, that he went home with the Child, and desired the Man who was there, and came for the Child to go, and tell the Gentleman who was at Mr. *Jones*'s, that the Child was coming ; said, he went with the Child, who took the Witness by the Skirt of his Coat, and the Witness took a Stick in his Hand, and before he went into the Entry leading to *Jones*'s House, he saw three or four Persons in the Entry ; that he and the Child passed by them, that when the Witness and the Child were going into the Kitchen of *Jones*'s House, he saw Mr. *Richard Annesley*, then Lord *Altham*, standing in the Kitchen in Black, who called out to the Persons in the Entry, and cried out, take that thieving Son of a Whore and leave him in the proper Place, that the Witness asked whom he meant by calling a thieving Son of a Whore, Lord *Altham* said, I don't speak to you, but am speaking

ing to that Son of a Whore you have in your Hand ; said the Witness, he is no Thief ; on which Lord *Altham* said, I will by God, send him to the Devil ; no, says the Witness you shall not send him to the Devil, or his Dam either ; that the Witness took the Child between his Legs and put his Hands over him, and said the first Person that would offer to touch the Child he would hurt him.

Said, that the foregoing Transaction was about the Month of *December*, and about six or seven Weeks from the Time Mr. *Richard Annesley* was at the Witness's House, that the Witness asked Lord *Altham* what Authority he had to take the Child away, that Lord *Altham* answered he could not make his Appearance at the Castle or elsewhere, from being insulted on thro' that thieving Son of a Whore's Account, and that he would send him out of the Kingdom ; whereupon, the Witness said to Lord *Altham*, that tho' he made a fine Appearance of a Gentleman, yet it was a poor Thing to revenge himself on so poor a Creature that you neither would maintain or cloath ; that thereon, Lord *Altham* desir'd the Witness to go and look for the Child's Nurse, the Witness said he did not know where she was.

And the Witness being asked what became of the Child after ; he said, that he brought the Child home with him again, and that Constables were often about his House, that the Child staid with him 'till the *February* following, and then went away from the Witness's House ; ——— said, he saw the Child after at Mr. *Tighe's*, that he asked him what Reason he had for going from him ; that the Child said his Reason was, that so many People were about his House to take him that he would stay no longer.

And being asked if he would know that Person again who was with him, in the Manner he described ; ——— said, he would, and then pointed to Mr. *James Annesley* then in Court, and swore he was the same Person, and that he knows him as well as his own Hand.

Cross Examined.

Said, about *April* or *May* 1726. that *Farrel* recommended Lord *Altham's* Son to him, and heard that Lord *Altham* then lived at *Inchicore*, and heard that Lady *Altham* died in *November* 1727, and that his Son was with the Witness about nine Months before.

Said, he had a Doubt within himself, whether the Boy was Lord *Altham's* Son, but heard that he was, and from the Circumstance

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circumstance *Farrel* told him, that he was Lord *Altham's* real natural Son.

Said, *Farrel* told him the Child had been with him, and his Wife was uneasy, having so many Children and Family of his own.

Said, he intended to go to Lord *Altham* and ask him about his Son, but People told the Witness that Lord *Altham*, was such a passionate Man, that if he the Witness should go there and ask any such Question; that by means of the Whore his Lordship kept, he would not value to shoot him, which was the Reason that he the Witness did not go.

Said, the Boy stole away, and went to *Christ Church* to his Father's Funeral, and returned Home a crying, and told the Witness that he was at his Father's Burial.

Said, that Captain *Richard Annesley* at the Time he came to the Witness's House with the Gun and Dog, said he was Lord *Altham's* Brother; said, that if the Witness had known how to go about or exert the young Man's Right he would, and that he did then know, and thought the Boy ought to succeed his Father in Title and Estate; said, that he made no Enquiry whether Lord *Altham* had left any Legacy to the Boy or his Son; said, he knew that Constables were about his House to take away the Boy, for that he saw one of the Constables lifting up the Latch of the Door in the Witness's Yard, and the Person seeing the Witness he ran away; said, that when he saw the Boy again, after he had left the Witness's House, the Boy had Mr. *Tigbe's* Livery on, and said that he lived near Mr. *Tigbe's* but never told Mr. *Tigbe* any thing of the Boy or who he was, and that he knew Mr. *Tigbe* for fourteen or fifteen Years before, and believed it was at the Door of Councillor *Tigbe* that he saw the Boy; said, he did suspect all along, that Lord *Anglesea* intended some Injury to the Child; said, that when he went with the Child to *Jones's* House, he did not see any Person in the House but *Jones* and Lord *Altham* in the Kitchen, and that as he was going into the Door, and the Persons in the Entry said *Jones* is dead; said to the Persons that he would lose his Life before he would let them take the Child from him; said, he understood by the Words natural Son, to be his own Son; said, he heard the Boy say, he hoped to be Earl of *Anglesea* yet; said, he never after had any Discourse about the Child, nor did he see the Boy a Ship-board, ever to his Knowledge.

Said, he knows *Andrew Charleton*, Attorney, and *Casper Stone*, and said he never told them or either of them, that he saw the Boy a Ship-board.

Said

Said, the Reason why he did not disclose who the Boy was, is this: That when the young Man would come of Age, he might disclose who he was himself; said, the Boy did nothing for his Bread, during the eleven Months he was with him, but run now-and-then of an Errand; said, the Boy sometimes called the Witness Master and his Wife Mistress; said, at the Time Lord *Altham* and the other Persons came to take away the Child was of a *Monday*, at ten of the Clock in the Morning.

Said, that *Jones* was an honest Man, but was so much in Favour of Lord *Altham*, that he would assist him therein, and that about a Year or two after *Jones* run mad about the Streets, and said Lord *Altham* had ruined him.

Said, that he gave no ill Usage to the Boy whilst he was with him, but having staid out two or three Nights he chastised him for it; said, he did not send the Boy to School, but had a Master in the House that taught the Boy to write; said, he thought by his preventing Lord *Altham's* taking away the Child from him, it was all over.

The Court adjourned by the Consent of the Parties; which was reduced into Writing, and signed by the Parties and their Attornies; and being openly read, was made a Rule of the Court, which Adjournment was to the next Morning, being *Tuesday* the 15th Day of *November*, at Nine of the Clock.





The Fourth Day of the TRYAL.

Tuesday November 15, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appeared in the Jury Box, and being seated together.

Court. Council for the Plaintiff, Proceed.

Mr. Serjeant *Tisdell*. My Lords, we will now produce Mr. *Shelcrofs Ass*, who was Attorney for the present Defendant at the Death of *Arthur* late Lord *Altham*, to shew the Resentment of the Defendant to the Plaintiff Mr. *Annesley*.

Shelcrofs Ass, Gentleman, Attorney, sworn and examined ; — said, he was acquainted with *Arthur* late Lord *Altham*, but did not know that he had any Child, or reputed Child, nor did he know *James Annesley*, or ever saw him ; — said, that he had Conversation with the Defendant, the Earl of *Anglesea*, immediately after the Burial of *Arthur* Lord *Altham*, that he was in Company with the present Defendant, when a Gentleman came in and said that a Boy was at the Burial that made a very great Noise thereat, and called himself the Son of Lord *Altham* deceas'd, on which the Defendant made answer, he was an Impostor, or Vagabond, and that he ought to be transported ; — said he was not positive whether it was the Day of the Funeral, but it was some short Time after.

Said, he was concerned for the Defendant in an Affair against one *Mullens* about the Effects of late Lord *Altham*, and being in Company with the Defendant about the Affair, a Person came into the Defendant, but whether it was one *Cavenagh*, a

Dancing Master, or one *Wilkinson*, both of whom were the Acquaintance of the Defendant, then Lord *Altham*, and one of them told his Lordship; that he had been with *Hawkins* the King at Arms, and that he had refused to enroll his Lordship on the List of Peers on Account of the Rumour that that Boy had made at the Funeral of Lord *Altham*.

On which the Defendant was very angry, and used some indecent Expressions concerning Mr. *Hawkins*, and answered as to the Objection, that the Boy was an Impostor, and a Vagabond, and there was Ways and Means to get rid of him; said, he was not positive but believed the Defendant might call him Bastard, and said he ought to be transported, and that he should.

On which the Witness said to his Lordship there were Methods to punish the Boy as a Vagabond; said, the Defendant did not give any Reason to the Company to induce them to believe the Boy was a Bastard, and that the Defendant said the Words in Anger, that the Witness told his Lordship that Vagabonds were to be Enrolled before the Lord Mayor at the Tholsell, but did not Mention for what purpose; said, that his Lordship being in such Anger against *Hawkins*, the Witness said to his Lordship, that he did not believe *Hawkins's* Reason for not Enrolling his Lordship was on Account of the Noise or Report of the Boy at the Funeral, but because *Hawkins* had not been paid his Honorary Fees, on which the Defendant said he would go and satisfy Mr. *Hawkins*, and leave the rest to him, and that soon after the Defendant took his Seat in the House of Lords.

Said, that about a Year after he had some Conversation with the Defendant about the Boy, his Lordship did not say the Boy was transported but that he was gone; that he did not know upon what Motives that Discourse happened, said, the Defendant made no other Answer, to the Expression of Ways and Means, but that he would go and satisfy Mr. *Hawkins*, nor did the Defendant approve or disapprove of the Method that the Witness mentioned of the Boy's being brought before the Mayor, but that the Boy ought to be transported; said, that all the Words the Defendant said about *Hawkins* was in a Heat, and did not remember who were then present at the said Conversation, but believed some of the Company might have been talking of the Boy, when the Defendant said he was gone, and that the Defendant expressed these Words very cool, and the Conversation was at a Tavern, and amongst the usual and intimate Acquaintance of the Defendant's.

Cross Examined.

Said, that his first Acquaintance with the late Lord *Altham* was when his Lordship lived at *Inchicore*, and was very intimate with his Lordship, and tho' he often dined with his Lordship he never heard that his Lordship had a Son, nor that he was a Black-Guard, nor never heard his Lordship declare who was to succeed him in Honour or Estate; nor never heard by the present Defendant who was reputed the presumptive Heir of Lord *Altham*, till what had happened at the Funeral.

The Witness being asked what the Report was, — said, the Report was this, that the present Defendant and late Lord *Altham* had executed Deeds in Reversion of some Parts of his Estate, that he never heard from the Lord *Altham* that the Defendant was his Heir, nor ever had any Directions from his Lordship to draw any State of the Case, nor ever informed the Witness any thing about his Affairs, but that the late Lord *Altham* died intestate, and that he took out Letters of Administration in the Name of the Defendant who took all the late Lord *Altham's* Papers but never drew any State of the Case, for the late Lord *Altham* : —

Said he had no Conversation with any Person about a Purse, but had some Conversation with Mr. *Caldwell*, the Plaintiff's Attorney in this Cause, who produced the Witness a Paper and read it to him, that the Witness said that what was wrote in that Paper relative to the Witness a great Part of it was untrue; said, that the Defendant advised with him about the Affair mentioned in the Paper but not about Transporting the Boy, tho' the Defendant consulted the Witness in his other Affair.

Mark Byrne, Constable, who being sworn and examined; said, he knows the Defendant the Earl of *Anglesea*, but how long he knows not, — said, that about 15 or 16 Years ago, the Witness met one *John Donnelly* a Constable in *Charles Street*, who told the Witness he had a good Job for him; with that he went with *Donnelly* to the House of *Jones* in *Ormond-Market* where the present Earl of *Anglesea* was, and saw a little Boy there; that the Earl of *Anglesea* said, there is my Brother's Son take him away, as charging the Boy with stealing a Silver Spoon. At which the Boy cried, and the Earl of *Anglesea* desired *Donnelly* the Witness, and another Person there to take him away, that they took the Boy away to *George's Quay*, and they put the Boy into a Boat, the present Earl of *Anglesea*, then Lord *Altham*, went into the Boat with *Donnelly*, and several

veral others, and went down the River. That the next Day *Donnelly* gave the Witness a Shilling, on which the Witness desired him to give him Part of the Guinea, *Donnelly* said he had not got it, but when he had he would give it the Witness; — said the Mob rose at the Boy crying out loud, saying, that the Lord *Altham* his Uncle would kill or transport him.

Said a Coach was called for at *Essex* Bridge and the Boy, *Donnelly* and the Witness went into the Coach, and that Lord *Altham* followed; — that neither *Donnelly* or the Witness, tho' Constables under the Lord Mayor had not, nor did he see any Warrant against the Boy, that he never saw the Boy after, until he sent for him lately, — said he did not know whether it was Morning or Evening when that Transaction was, but it was about the Spring of the Year.

Cross Examined.

Said, that the Defendant then Lord *Altham* was in *Jones's* Kitchen with the Boy when the Witness and *Donnelly* went there and that the Doors were open, — said, the Words Lord *Altham* made use of were, *That the Boy was his Brother's Son, and had stole a Silver Spoon*; that the Boy cryed out his Uncle would kill or transport him, — said, at that Time the Witness did not apprehend what Lord *Altham* was going to do with the Boy, but that the Witness after enquir'd of *Donnelly* what was done with him; — said, they were going to send the Boy abroad, and the Witness believed they were doing an unlawful Act, yet he told no-body of it.

Said, he does not remember the Cloaths the Boy had on, whether a Livery or not.

Said, that *Donnelly* is since dead; did not know how long he was Constable before, but believed he was two Years, and that he does not now know who was then Lord Mayor, Sheriffs or Sub-Sheriff, and never served any Writs for the Sheriff.

Mr. Recorder of Dublin. My Lords, there are Parish Constables to attend the Lord Mayor, to serve Summons for Juries in the City and assist in quelling Mobs in the City, and taking up Vagabonds.

And the Witness being further cross examined, said, he did not remember that *Jones* of the House was present, said, that he had seen the Defendant then Lord *Altham* in *Dublin* before, but what Cloaths his Lordship had on that Day the Witness knew not; that they took the Boy away, but the Witness did not know where they were going with the Boy, and believed

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Donnelly had his Directions before, where to go with the Boy, and that *Donnelly* assisted, putting the Boy into the Boat, at *George's Quay*, believed that one *James Reily*, then a Servant to Lord *Altham*, the Lord himself, *Donnelly* and others went into the Boat, that *Reily* had a Livery on, but was not in Black; said, that it was between the Market and *Essex Bridge* the Coach was taken, but that *Reily* was not then with them, and saw *Reily* first on *George's Quay*; said, he saw them row the Boat down the River, but did not stay to see them row down beyond the Point; that he saw no Ship there, and went away when he saw the Boat set off; said, he did not speak either to *Purcel* or *Jones* about the Boy nor related it to any other Person until he was sent for by the Gentleman Mr. *Annesley*; said, he could not tell which got to the Quay first either the Coach, or Lord *Altham*, said, he never did any such Act either before or since, said, the Reason for taking the Coach was to keep off the Mob, and that it was *Donnelly* that call'd for the Coach, said, they were not a Quarter of an Hour at the Quay before the Boy was put into the Boat, said, he never saw the Boy before, and it was Lord *Altham* that said the Boy stole the Silver Spoon from his Lordship, believed they passed by *Purcel's House* in the Market with the Boy, but saw no body at the Door.

Said, he gave Evidence in a Cause before Commissioners, but was never examined by a Justice of the Peace, said, Mr. *Annesley* sent for him when he came to this City, and that it was one Mr. *Neal* that found out the Witness by Enquiry for him, did not know how Mr. *Annesley* came to know the Witness's Name or how to find him out, but said, he could not swear to the Boy now.

Mr. *B. M.* then examined the Witness,——who said, that the Boy cried out at the Quay only, and did not observe the Boy to say any thing, that several People were on the Quay, but the Witness knew none of them, said the Boy and Constables went down into the Boat before the Lord *Altham*, that the Boy was so tired with crying that he could not make much Noise, that several People asked the Witness what was the Matter, but that he made no Answer.

James Reily, who being sworn and examined, said, he knew the Earl of *Anglesea*, and that the Witness's Place of Abode is in *London*, and keeps a House there; said, that he was Servant to the present Earl of *Anglesea* 15 or 16 Years ago, and came into his Service after New-Year's-Day.

Said, that about a Month or six Weeks after he went to live with the Defendant, he was employed by him to go with some Constables

Constables to look for *James Annesley*, and the Constables were *Bryan Donnelly*, *Jack Donnelly*, *Mark Byrne*, and *Patrick Ryan*; that Lord *Anglesea* desired him as soon as they took *James Annesley* to bring him into an Ale-house, and to send for his Lordship as soon as possible;—said, that he went with the *Donneleys* five or six Times to look for the Boy, that *Mark Byrne* was once with them at *New Market* to look for the Boy but did not meet him;—said, the last Day *Mark Byrne* was with them, was when the Boy was shipped off; said, that after they were looking for the Boy about a Fortnight, he was sent for to go to his Master the Lord *Anglesea*, to one *Derinsey's* in *Castle-Street*, that when the Witness came there, his Lordship was gone, and whilst the Witness was there, a Porter came from *George's-Quay* to go to his Lordship, that the Witness went there to his Lordship, his Lordship then whisper'd to him, and sent him to borrow a Guinea, that he borrowed the Guinea from Mrs. *Kelly* at the Butcher's-Arms, gave the Guinea to his Lordship and his Lordship gave the same to *Jack Donnelly* the Constable.

Said, that *Jack Donnelly* went away, and soon after *Bryan Donnelly* and *Mark Byrne* came with the Boy to *George's-Quay*, that *Jack Donnelly*, *Bryan Donnelly*, the Boy, two others, the Witness, and the Defendant, then Lord *Altham*, went into a Boat, and put the Boy aboard a Ship, that none went aboard the Ship but his Lordship and the Boy.

Said, he did not know the Name of the Ship the Boy was put on board of, but that he was then told she was bound for some Place in *America*.

Said, he knew the Boy before from the Age of six Years, saw him at *Stephen's-Green* and *Proper-Lane*, and the Boy was always reputed the Son of *Arthur* late Lord *Altham*.

Said, he heard the Defendant, the Earl of *Anglesea* say, that he would take a Course with the Boy, on Account of the Boy's making a Noise, and often great Noises were made against the Earl of *Anglesea*, for taking the Boy's Birth-right from him, and heard the same three or four times in a Day, and that a Relation of the Witness was employed to take care of the Child.

Cross Examined.

Said, he is not now a Servant to Lord *Barymore*, but expected as soon as he went over to *England* to be employed by his Lordship, as his House-Steward.

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Said, his Wife keeps a Shop in *King's-street* near *St. James's*, *London*, sells Cambricks and Mullins, and that he would not be Servant to any Man, but as House-Steward.

Said, Lord *Barymore* gave him a Protection as his Servant to come to *Irelaad*, that he should not be arrested for Debt here ; —said, tho' he has that Protection, yet he is not at present a Servant to Lord *Barymore* ; and said, the Protection is signed by Lord *Barymore* himself.

Said, that it was in the Afternoon they went down the River, and that the Ship lay in the River below *Ring's-End*, and that it was duskish when they returned from putting the Boy on board.

Said, the Defendant, the Earl of *Anglesea* went into the Boat first, the rest of the Persons before named followed and the Witness was the last Man that went in.

Is acquainted with *Mark Byrne*, and he lived with Lord *Altham* at *Inchicore* during the time he lived with his Lordship, and was a Livery Servant.

Said, it was in the Spring of the Year, that the Boy was sent abroad, believed he spoke to *Mark Byrne* several times, but never spoke to him, any other than asking him how he did, and saw the said *Byrne*, a *Friday*, last *Saturday* and *Monday*, but did not speak or discourse with him any thing about Mr. *Annesley*, and saw *Byrne* amongst Mr. *Annesley's* Witnesses in the Court-House ; said, *Mark Byrne* did not go into the Boat, nor did he know how *Byrne* came to the Quay, that the Boy was between *Byrne* and the Constables, and when the Witness first saw them on the Quay, they were all standing at the Ship and the Defendant was there, but how long his Lordship was there he knew not ; said, Lord *Altham* was an Hour and a half at *George's Quay* before he brought him the Guinea.

Said, Mrs. *Kelly* lived at the Butchers Arms below *Inchicore*, and it was there he borrowed the Guinea, and that he walked there from *George's Quay* ; said, he saw Mrs. *Kelly* several times since, but has not been there, or on the Lands of *Inchicore*, these five Years.

Said, the Guinea was given to *Jack Donnely* by Lord *Altham* in the Beer House, where his Lordship stay'd till he brought him the Guinea, could not say whether he saw Cart or Coach on the Quay, but did not see them till he saw them at the Ship ; said, it was after two o'Clock at Noon when he went for the Guinea, and believed the space of Time after *Jack Donnely* got the Guinea 'till his return and saw them at the Ship was about three or four Minutes ; said, that Lord *Altham* was the first that

that went into the Boat, the two *Donnellys*, and they next, then the Witness, and two others whom he knows not.

Said, Lord *Altham* was to give the Witness four Pounds a Year Wages, did not know what Cloaths the Boy had on when he was put on board, but he was not ragged; said Lord *Altham* told the Witness that he would transport the Boy, and that before his Lordship did it he gave the Witness several Shillings to drink with the Constables; that the Witness knew for what purpose he was sent to borrow the Guinea, and it was to give the Constables.

Said, his Lordship bid the Witness go and borrow the Guinea at the *Hog-in-Armour* in *James-Street*, and being refused there, he went to *Kelly's* at the *Butcher's-Arms*.

And the Witness being asked, what Directions his Lordship gave him about searching for the Boy, the Witness said the Directions was, to beware of taking the Boy in *Ormond Market*, for fear of their being destroyed by the *Ormond Boys*, and to avoid *Purcel*, and to search in *Smithfield*, the *Long-Meadows*, and the *College*.

Said, he wrought in the Lord's Garden for a Month before he got Cloaths, and then got a blue Livery, did not remember what Cloaths his Lordship wore, having several Suits, his Lordship dressing himself, and combing his own Wig, and had no other Men Servants but the Witness and a little Boy, did not remember that the Lord was at Parliament, but did not wear black Cloaths when the Boy was sent abroad.

Said, Mr. *Derinsy*, Mr. *Kennely*, and several others dined at his Lordship's House whilst the Witness was there, but how many others he knew not, that he knows Mr. *Annesley's* Face, and believed he might be at his Lordship's House then, but who were the particular Visitors he could not remember, being about 15 Years ago; said, the Livery he wore the Day the Boy was sent away, was a Blue lined with red.

Said, he saw the Boy a hundred Times from the Time the Boy left *Proper-lane*, to the Time he was sent abroad; said, he saw the Boy at Mr. *Tigbe's* with a Livery on, after the Lord *Altham* died, but whether it was Mr. *Tigbe's* Livery he knew not.

Said, Lord *Altham* died before the Witness went to live with Mr. *Brown* on New-Year's-Day; said, the Boy had the same Livery Coat on at the Time he was sent away, that the Boy had on when the Witness saw him at Mr. *Tigbe's*.

Said, the Lord *Altham*, the now Defendant turned the Witness away without any Reason, and never paid him a Farthing of his Wages, and took the Opportunity of turning him off

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in the Morning, because the Witness had waited up for his Lordship being out late and the Witness then required to be in the Way and to open the Gate for him, brought a Chair out of the House to set on, that when his Lordship came home in a Coach he had Words with the Coachman, and seeing the Chair at the Door, said the Witness was a Thief, and going to rob his House, and then turned him away.

Said, he often after applied for his Wages, but was refused it;—said, Lady *Altham* gave the Witness seven Shillings in part of his Wages, which Lord *Altham* being told, he then being a Justice of the Peace for the County of *Dublin*, issued his Warrant against the Witness; that the Witness was taken thereon, and returned the seven Shillings to the Constables, otherwise they said they would have the Witness in *Kilmainham* Gaol; and on being paid the seven Shillings the Witness got his Liberty, that Lord *Altham* was then married, and that his Lordship had several Suits of Cloaths, but did not know the Particulars, the Witness never being in the Room where the same were kept.

Said, he lived 12 Years in this Kingdom after he left the Lord *Altham*, and saw his Lordship one Day at Lord Mount *Joye's*, that the Witness hid himself from his Lordship for fear of him, lest he should do the Witness some Mischief;—said he saw the Child at *Stephen's-Green* in Frocks, but did not know his Age.

Council for the Plaintiff. My Lords we have now proved Mr. *Annesley* to be put on board a Ship, we will now shew your Lordships and the Gentlemen of the Jury from the Customhouse Book of the Port of *Dublin*, what Ship was then bound for Foreign Parts into *America*, and then we'll shew the actual Entry of Mr. *Annesley's* Name in the Owner of that Ship's Books, and that the Ship failed, and Mr. *Annesley* transported abroad as a Servant, and then we hope it will be incumbent on the Defendant, the Earl of *Anglesea*, to shew by what Power or Authority he sent Mr. *Annesley* abroad, and if he does not we hope it will be an Inducement to the Jury to believe that Mr. *Annesley* the Lessor of the Plaintiff in this Cause was a great Thorn to the Defendant, and to put Mr. *Annesley* out of the Way, was all he had to do, to enjoy the Honours and Estate of this noble Family, and to which, we hope we have proved Mr. *Annesley* the now Plaintiff, to be the lawful Son and rightful Heir of *Arthur Lord Altham* deceas'd.

Council for the Defendant. You have not proved one Word of that yet.

Court. Proceed, and call your Witnesses.

— *George Babe*, Esq; Clerk of the Ship-Entries at the Custom-house, *Dublin*, who being sworn and examined said, he is an Officer of the Custom-house and Clerk of the Ship-Entries of the Port in *Dublin*, and said, the Book he then produced in Court was the Book of Ship-Entries in the Year 1728.

Said, that he finds an Entry made therein of the 18th of April 1728, that a Ship called the *James* of *Dublin*, Burthen 100 Tons, *Thomas Hendry*, Master, entred outwards for *Virol* and *Philadelph* and Owners of the Goods were *James Stephenson*, *William Vancey*, and *Benjamin Glegg* — that the Entry is all the Witness's Hand-writing but signed by the Master *Thomas Hendry*, said, they do not enter where the Ship lies, and that *James Stephenson* is dead.

Cross Examined.

Said, the Master of the Ship swears when he goes outwards to the Place to which he intends to Sail.

— Said *William Clancy* is alive; but did not know where he is, and did not know *Benjamin Glegg*; said he does not enter when the Ship is to sail, but they must enter the Ship before they can go out.

Council for the Plaintiff. — It now appears that *James Stephenson*, one of the Owners is dead, we will produce his Books, and shew that Mr. *James Annesley* was sent abroad on board that Ship the Time we have proved — that he was taken away by Force.

Andrew Cromey, Merchant, who being sworn and examined, said, he knew *James Stephenson*, Merchant, and that he is dead; the Witness produced a Book which he swore he found amongst the Books of Entries and Accounts of the said *Stephenson*, that the Witness is married to the Daughter of *Stephenson*; and was his Clerk for thirteen Years, that he went to live with *Stephenson* in June 1720 and left him in June 1733, and was his Clerk in the Year 1728.

Said, that *James Stephenson*, Merchant, had several Writing Clerks during the Time the Witness was with him; said, that

that *Stephenson* traded to the *West-Indies* with Servants among other Goods.

Said, the Nature of taking Servants were, that the Owner of the Ship advertised his sailing to such a Place, and that they would take in Servants, and also let them know where the Master of the Ship was to be found; that the Persons that would go as Servants were brought before the Lord Mayor to indent before the Ship sailed, and Persons under Age that wou'd go as Servants did the same.

Said, that on the Day of Sailing the Name of every Person whether Servant or Passenger was taken down, along with the Ship's Crew, said, he found an Entry made in the Book in his Hand by one *Skelleron* who was *Stephenson's* Clerk, that *Skelleron* is dead, and he was very well acquainted with his Hand-writing.

Council for the Defendant. We will admit the Book to be read.

Council for the Plaintiff. Mr. *Cromey* look in the Book and see if you find any Entry therein when the Ship *James* of *Dublin* sailed and who were aboard.

Mr. *Cromey* reads,
30th of *April*, 1728.

An Account of the several Servants aboard the Ship *James* that went over the Barr the 30th of *April* 1728.—

Reads *James Annesley.*—

The fourth Person's Name set down there as a Servant.—

Council for the Plaintiff.— Mr. *Cromey* it seems you are acquainted with the Nature and Manner of the trading with Servants that are aboard, give an Account to the Court and the Jury, what you know of that Matter.

Witness said, there is first a List made by the Master of the Ship the Night before the Ship is to set Sail, and delivered to the Merchant's Clerk who goes aboard the Ship, and the Persons aboard are called to the fore Part of the Ship, then the Master or Mate of the Ship calls the several Persons by their Names, and as the Persons pass by, the Clerk asks the Persons their Names, and then he writes their Names down as they answer, which List is entred in the Owner's Books as a Charge on the Master, and further said, that several Persons Names are returned in the List by the Master that do not go, and to be more certain and particular of the Servants and Passengers aboard when the Ship is to set Sail, the Clerk is sent aboard, to take their

their Names, to prevent any Dispute after, between the Owner and the Master.

Cross Examined.

He said, that the Ship *James* lay at *Essex-Bridge* before she sailed, ——— said, the Servants go to be examined before the Lord Mayor, and when Persons were under Age the Lord Mayor examines them, who their Parents are; said, he never knew any to be taken away by Force; said, that Mr. *Goume*, the Town Clerk, or his Clerk, makes an Entry into the Tholfell Book of the several Persons that are to go as Servants, that the Merchant cloaths such of the Persons that go as Servants, if they have no Cloaths, but if they have Cloaths they do not; said, that they that go to be bound as Apprentices to serve abroad, the Merchant indents for them at the Tholfell, but them that go as Servants they do not; ——— said, they that go as Passengers are taken down as Passengers, tho' some may be aboard as a Passenger, yet set down as a Servant.

And being asked by the Plaintiff's Council, whether Persons may not be aboard without the Merchant, Owner, or Clerk's Knowledge, ——— said, they might, as taking the Entry for the Master.

Lord Chief Baron. If this Boy was carried before the Lord Mayor, you can find an Entry in the Town Book.

And the Witness being further examined, said, the Clerk takes down the Indenture of the Persons indented and gives the same to the Master of the Ship before he sails, and said the Clerk does not always call the Persons Names from the Indenture, said, that when the Person answers to his Name, and says he or she go as Servants they do not call for the Indenture, said, he could not tell if a Person would complain but he would be taken away; yet his Name would be returned by the Clerk to his Master, said, that although a Man should say he would not go, and the Clerk should call for the Indenture and not find it, the Clerk would take down the Person's Name, and would not stop the Ship from Sailing, and would enter all Persons aboard as Servants, and in the List of Servants.

Council for the Defendant, ——— My Lords, all Persons that went abroad were not indented or enrolled at the Tholfell for Mr. *Hawkins* a Justice of the Peace for the County of *Dublin* took upon himself to have a Right to indent Servants going abroad from the County of *Dublin*.

And

And we will examine the Witness to that Point, being asked that Question.

Witness said, that Mr. *Hawkins*, Justice of the Peace for the County of *Dublin*, used to indent Servants.

Council for the Plaintiff. — Do you find that there ever was a Return made to the Owners of that Ship by that Master on Account of this Voyage.

Witness said, that Mr. *Stephenson* lost by the Master of that Ship 4000 l. and when he had got the Owner's Effects into his Hands, he never returned — nor does he find any Return made by the Master of that Voyage — and that the Master returns an Account to his Merchant of the Sale of the Servants, and that the Master of the Ship might have Persons aboard that he would not discover.

Henry Goume, Gentleman, who being sworn and examined ; said, he is Town Clerk of the City of *Dublin*, and that the Book which he now produces is a Book kept in the Tholsell Office of the City of *Dublin*, of the several Persons indented before the Lord Mayor that go abroad as Servants, and said the Book begins the 1st of May 1699 — Read several Persons Names indented in the Year 1727.

Twenty-fifth of *March* 1728, read several Names of Persons bound that Day.

Twenty-sixth of *March* 1728, read several Persons Names indented that Day.

And read the Name of *James Hennesley*, as one of the Persons indented that Day. There being one hundred and seventeen Men and Women indented that Day.

Council for the Defendant. That *James Hennesley* is the Plaintiff, tho' the Surname is spelt with an *H.* instead of an *A.*

Mr. *Cromey* examined again ; said, he does not remember any particular Person, that their Names are now read.

Lord Chief Baron. From the Evidence that is given of the Boy's being put on board the Ship, in the Manner that this Boy was ; the Person who put him aboard, must give an Account of what became of him.

Mr.

Mr. *Goume*, swears that the Entry of the Name *James Hennesley* in the Lord Mayor's Book, is wrote by his Father, who was Town Clerk then, and now.

Mr. *B. D.* There are eighty Men entred in the Merchant's Book, and one hundred in the Lord Mayor's.

Mr. *Goume*, what Entry do you find made on *James Hennesley*.

Reads, *James Hennesley* bound for seven Years.

Council for the Defendant. Mr. *Goume*, give an Account of the Method used in the Tholfell for indenting Servants going abroad and whether they are examined by the Lord Mayor, before the Indenture is filled up?

Witness said, the Merchant or Master of the Ship always brings the Names of the Persons to be indented in a List, and leaves it with the Town Clerk, and the Indenture is fill'd up at the Tholfell Office.

Mr. *Cromey* further examined; said, the Master does not read the Names that the Clerk takes down aboard the Ship.

Council for the Plaintiff. My Lords, we will now produce Councellor *Tigbe*, to shew in what Manner Mr. *Annesley* was taken out of his Service.

Richard Tigbe, Esq; who being sworn and examined; said, that *James Annesley* came to him in a poor Condition, from one *Purcel*'s a Butcher, and lived with the Deponent as a Servant for some Months; said, it was some time after *Christmas* in the Year 1727. that the said *Annesley* came to live with him, but that the Deponent's Son brought the said *Annesley* privately into his House before the Deponent knew of it; said, Lord *Altham* was reported to be the said *James Annesley*'s Father, but that the Boy appeared to him to be about thirteen or fourteen Years of Age, to the best of the Deponent's Knowledge, and that the Boy lived with the Deponent to the Time he was transported, and that the Boy was taken from him by Stealth.

Said, that his Son put a former Livery that he had for a Boy on Mr. *Annesley*, which fitted him; said, that he never spoke to the Earl *Anglesea* in his Life; and that the Deponent did not know

know after what Manner the Boy withdrew himself from the Deponent's Service, the Deponent having given the Boy no Occasion for quitting his House ; said, the Boy was reputed the legitimate Son of Lord *Altham*, and came to live with the Deponent after the Death of the said Lord, who died in *November 1727* ; said, the Boy staid so short a Time with the Deponent, that he did not take such Notice of him or of his Affairs, but that if he had staid with the Deponent, he believed he would have taken proper Care of him.

Swore that the Plaintiff, *James Annesley*, is the very same Person, and the said *James Annesley* that lived with the Deponent, and who was now in Court, that was taken away from his Service, and that he heard nothing of him for fourteen Years, until he had a Letter from the Governor of *Virol*, giving the Deponent an Account that Admiral *Vernon* had taken Mr. *Annesley* into his Care ; that Mr. *Reily* an Agent for the Earl of *Anglesea*, came to the Deponent for the Letter, that the Deponent gave it to *Reily* and *Reily* never returned it to the Deponent since.

Said, the next Day a Person as a Clerk to Mr. *Coultherst*, then Attorney for the Earl of *Anglesea* the Defendant, came to the Deponent with an Affidavit ready drawn for the Deponent, to swear that *James Annesley*, that lived with the Deponent was a Bastard Son of the late Lord *Altham's*.

And the Plaintiff's Council having asked Mr. *Tighe* after what Manner, Mr. *Reily* the Defendant's Agent, came to him for the Letter, the Deponent said, that Mr. *Reily* came to the Deponent's House, and having seen the Deponent, *Reily* said that he came with a Service from the Earl of *Anglesea*, for the Letter the Deponent had received from *Jamaica* and from abroad, directed to the Deponent, and at the same time asked the Deponent if he had not a Letter relating to Mr. *Annesley* ? The Deponent said he had, and read the same to *Reily*, then *Reily* desired the Deponent to give it to him, to shew the Earl of *Anglesea*, with a Promise of returning the same back, that on the said Promise he gave *Reily* the Letter, and never saw it since.

And being asked after what Manner *James Annesley* went from him, the Deponent said he went from him suddenly.

Cross Examined.

Said, he knew nothing of Mr. *Annesley* whilst he was at *Purcell's*, but said it was generally reported, and by every body that the Boy was Lord *Altham's* Son ; said, that when *James Annesley* came to live with him, he was in a poor mean Way, and just

just come out of the Small-Pox, which appeared to him to be so from the Redness in his Face.

And the Deponent being asked, by the Defendant's Council, what he conjectured of the Boy's going away? The Deponent, said he believed that the Boy was spirited away, and never changed his Opinion of that Matter to this Day, and believes the same still.

Said, that *Peter Murphy* a Boy, that lived with the Deponent after told the Deponent, that he went and saw the Boy in the Ship, and that the Boy cried, and said his Uncle had stole him away.

And being further asked, by the Defendant's Council, as the Deponent was bred to the Profession of the Law; why he did not stir and speak of that Matter, as knowing the same to be an unlawful Act, or to apply to the Lord Chief Justice for his Warrant to get the Boy back?

To which the Deponent answered; that he would have spoke of it, but was informed the Ship was gone, and that he would have been put to great Trouble and Expence, and did not know that he ever would see the Boy again, being gone to the *West Indies*.

And being further asked, why he did not inform *Arthur, Earl of Anglesea* of it?

The Deponent said, he was an entire Stranger to *Arthur, Earl of Anglesea*, and to *Arthur*, late Lord *Altham*, and to their Affairs, and to any Disputes that were in the Family; said, that he never heard from any Person, but from *Murphy* his Servant that the Boy was gone.

Council for the Plaintiff. My Lords, we will now call a Witness, that saw the Plaintiff Mr. *Annesley* in *America*, and what the Plaintiff Mr. *Annesley* declared whilst he was there.

John Brothers, Sailor, who being sworn and examined, said he knew *James Annesley*, that the Witness was at *Pensilvania* in *America* about Fourteen or Fifteen Years ago, and saw *James Annesley* there. That the Witness and his Brother had been riding in that Country, they called at a House to warm themselves; and sitting at the Fire, a Boy came in with a Gun and a dead squirrel; that the Witness's Brother, who had been in that Country, for some time before, and not seeing the Boy there before, asked the Boy what Countryman he was? The Boy said he was an *Irish* Man, and came from the County of *Wexford*, and that he was born at *Dunmeau* in that County, and that his Name was *Annesley*; that the Witness and his Brother being both

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both of that County; said they knew not any such Family there. On which the Boy said he was the Son of the Lord *Altham*, then the Witness and his Brother knew the Lord *Altham*, that the Boy said he was a Servant to the Man of that House, and the Boy gave them an Account of *Dunmeau*.

The Witness said he could not particularly swear Mr. *Annesley*, then in Court, to be the same Person he saw in *America* from the Length of Time, said that he the Witness, when he went to the Ship, told amongst the Crew that he had seen *James Annesley* in *America*.

This Witness was not Cross Examined:

John Giffard, Attorney, sworn and examined, said, he knows the Plaintiff, — did not know what Time the Plaintiff, Mr. *Annesley* came first to *England*.

The Defendant's Council objected to Mr. *Giffard's* being further examined, until the Plaintiff's Council will open the Point to which they produce the Witness.

Court. Council for the Plaintiff, what do you produce this Witness for, you have heard the Objection made by the Defendant's Council?

Council for the Plaintiff. My Lords, we produce this Witness to shew, that the Witness was employ'd by the Defendant to prosecute Mr. *Annesley*, the Plaintiff in this Cause, for Murder and was promised a Sum of Ten Thousand Pounds to have him hanged.

Council for the Defendant. My Lords the Objection made on Behalf of the Defendant is just; the Nature of the Evidence now to be given to the Court and the Jury is no Way relative to the Issue in this Cause, — being a foreign Matter.

Court. Reserve this Point for the Opinion of the Court To-morrow, whether the Evidence shall be given? — And to be further spoke to by the Council on both Sides.

[Then Mr. *Giffard* withdrew.]

Council for the Plaintiff. My Lords, we will now produce a Witness to shew, that no Registry of Christenings was kept in the Parish where the Plaintiff was born.

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The Reverend *Able Butler*, Clerk, who being sworn and examined, says, he knows the Parish of *Tentor*, in the County of *Wexford*, and that the Land of *Dunmeau* is in the Parish of *Owenduff*, and united to *Tentor*; that he is Vicar of the said Parishes, and that there is not any Registry of Marriages or Christenings kept in that Parish.

Council for the Plaintiff. My Lords, we will produce another Witness to shew what *Arthur* late Lord *Altham* said relative to the Plaintiff's being his Son.

John Barton, Gentleman, who being sworn and examined, said, he knew *Arthur* late Lord *Altham*, and conversed with him frequently about the Plaintiff *Mr. Annesley*,—said, that being in Company one Night with his Lordship at *Inchicore*, and being very free with his Lordship, he asked his Lordship if he would be angry, if the Witness should ask him a Question? His Lordship answered, he would not. The Witness then asked his Lordship, if the young Lad that ran about was his Son, his Lordship replied, and said, he was his Son by his lawful Wife, but could do nothing for him, by Reason of a Woman he kept.

Said that Lord *Altham* was a needy Man and kept a Pack of Hounds, and one Hound would eat another for want of Food; that the Witness was a near Neighbour to his Lordship, and said, that Question was asked his Lordship by the Witness about a Year before the Death of Lord *Altham*, and that the Witness used to give the Boy Victuals, and that the Boy would lie about the Lands of *Inchicore*, and in the Ditches.

Cross Examined.

Said, he never spoke to Lord *Altham*, but once about his Son, which was three or four Years before the Death of Lord *Altham*, that his Lordship lived at *Inchicore* six or seven Years before his Death, and believ'd he might have seen the Boy there about a Year before Lord *Altham*'s Death, said, he did not mind how long the Boy lived at *Inchicore*, said, the Boy was very ragged, and would go backwards and forwards in that Condition,—said, that tho' he knew the Boy to be his Lordship's Son, and his Lordship not taking any Care of the Boy, was the Reason why he did not speak to his Lordship oftner about the Boy.

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Said, it was about four of the Clock in the Morning when they were a Drinking, that he asked his Lordship the Question about the Lad's being his Son, said, the Lord *Altham* did not appear to him to be drunk, when his Lordship made the Witness the Answer of the Lad's being his Son by his lawful Wife, nor was the Witness drunk.

Council for the Plaintiff. My Lords, it is now too late further to proceed to examine more Witnesses; To-morrow we will speak to the Points reserved, as to examining Mr. *Giffard*. And, by consent of the Parties, the Court was adjourned to the next Morning at Nine o'Clock. This Adjournment was made at Nine o'Clock at Night.



The Fifth Day of the TRYAL.

Wednesday November 16, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appeared in the Jury Box, and being seated together.

Court. Council for the Plaintiff proceed,

Mr. *H.* of Council with the Plaintiff. My Lords we will proceed and call Mr. *Giffard* the Defendant, (the Earl of *Anglesea*'s) Attorney in England, to shew the Conversation between him and the Earl of *Anglesea* about the Tryal of the Plaintiff, Mr. *Annesley* at the *Old Bailey* for Murder. In which Affair the Defendant, the Earl of *Anglesea*, was no way concerned, or was any Relation to the Man killed. And of the Earl's Declaration of giving Ten Thousand Pounds for having the Plaintiff Mr. *Annesley* hanged, that of his Declaration, that he would go to *France*, and let *Jemmy* have his Right, he
allowing

allowing the Earl Three Thousands a Year, for that the Earl's Wife was worrying him in *Ireland*, and Mr. *Charles Annesley* in *England*, and that the Defendant could not bear it.

Mr. P. D. of Council with the Defendant. My Lords, we of Council for the Defendant object to Mr. *Giffard* the Attorney's being examined to the Matters mentioned by the Plaintiff's Council, and pray to be heard to that Point.

Court. Speak to it.

Mr. P. D. My Lords, an Attorney ought not be examined to discover the Secrets of his Client, if he was, no Man would be safe, there being so much Confidence reposed in them.

Mr. Recorder of Dublin, for the Defendant. Put the Case of Deeds deposited in the Hands of an Attorney, he shall not be examined to discover the Deeds.—

Mr. H. for the Plaintiff. My Lords, Mr. *Giffard* was not Attorney for the Earl of *Anglesea* in this Cause.

Lord Chief Baron. If a Person applies to an Attorney, or Agent, in an unlawful Act, where he is not concerned, to take away the Life of a Man, can't the Court come at that Attorney, or Agent to disclose the Matter.—

Mr. B. M. Supposing a Suit was depending between A. and B. relative to an Estate, and A. says to his Attorney, I know where the Deeds are that can destroy my Title, I will give you a thousand Pounds to break open the Place and take away the Deeds, can't the Attorney be examined as a Witness to Discover that Fact.

Mr. Recorder of Dublin. My Lords, that is not the Case here, for the Tye between the Person employed and the Person employing; if the Person should be examined after the Cause is over, he ought not to answer the Question, because he discovers that which the Party himself by Law was not obliged to answer or disclose, and the rather the Attorney has no other Interest therein, but the Safety of his Employer, that an Attorney by Appointment is, *potius loco suo*, which shews that he stands in the Place of the Party; and that if an Attorney be examined as a Witness against his Client, the Lord Chancellor said he was a *turpis testis*, without the Consent of his Client.—

Mr.

Mr. B. M. Could not a Prisoner at the Bar examine a Witness who was on the Table giving Evidence against him, whether he was not to get a thousand Pounds for taking away his Life?

Mr. D. for the Defendant. Says he ought not to be examined. —

M. B. for the Defendant. Said, an Attorney could not be examined to disclose the Secrets of his Client without his Consent, if he did, an Action of Deceit will lie against the Attorney and the Party, tho' the Attorney should not insist on his Privilege, yet the Party may insist that he should not be examined. —

Mr. H——y for the Defendant. If this Person whom the Plaintiff would now examine, was an Attorney of this Court, your Lordships would not suffer him to disclose the Secrets of his Client, therefore your Lordships will not suffer any other Attorney to do that which your Lordships would not suffer your own Attornies to do, for an Attorney is sworn to keep the Secrets of his Client.

Mr. L——e, for the Defendant. Quoted the Case of *Fitzgerald* and *Rylans* in this Court, of an Attorney's discontinuing a Suit without the Consent of his Client, and though the Judgment on the Discontinuance was made up, and of another Term, yet as this Discontinuance was and might be a Bar to the Plaintiff's Title, Discontinuance was vacated for by the Party's bringing an Action against the Attorney, for his Damages would not avail the Party, his Title being barren, if the Discontinuance was admitted to stand in the way.

M. J. S. and Mr. P. S. M. for the Defendant. Said, an Attorney in any Case should not be examined against his Client.

Mr. S. M. for the Plaintiff. This Person whom we now intend to examine, is not an Attorney, in this Cause, nor is any Attorney further concerned than during the Time of his being retained, but an Attorney is not by his Oath to keep secret any thing that is to the Prejudice of the Publick, or to deprive a Person of his Life, in which Cases, that Privacy between the Attorney and his Employer is discharged. —

Court.

Court. Call the Witness, and we will hear what he says relative to his being an Attorney.

John Giffard, called and sworn.

Lord Chief Baron. Witness, are you an Attorney of any and what Court?

Witness. My Lord, I am an Attorney of the Court of Common Pleas in *England*, and admitted a Solicitor in the High Court of Chancery there, in pursuance of the Act of Parliament.

Lord Chief Baron. You know the Defendant the Earl of *Anglesea*, and are or were you at any Time and when concerned for him as an Attorney in any or what Suits or Causes, name the Parties, but not the Causes of Suits.—

Witness. My Lords I know the Defendant the Earl of *Anglesea*, and in the Year 1722 I was employed as an Attorney for him in the following Suits.

The King against *Richard Annesley*, Esq;—*Crisdel* against the same, and was concerned for him in 1737 in Doctors Commons between him and his Countess. Lord *Haversham* and Earl of *Anglesea* as Solicitor in Chancery.—In 1741 the Earl of *Anglesea* and *Simpson*, Earl of *Anglesea* against *Henderson* a Quaker in the Court of Common Pleas, the same against *Cooper*, *Syons* at the Suits of *Banks*, and was sent for by the Earl of *Anglesea* to carry on a Prosecution against Mr. *Annesley* the Lessor of the Plaintiff for Murder; and that he was not retained as Attorney or Solicitor for the Defendant the Earl of *Anglesea* in any other Cause or Causes whatsoever; said, that he was retained the second Day of *May*, 1742. to carry on the Prosecution for Murder; said, that he could not be certain whether before or after the Retainer for the Murder he had the last Conversation with the Defendant about the Right the Lessor of the Plaintiff had to the Title and Estate, that he is not concerned in this Cause, either for the Lessor of the Plaintiff or the Defendant; said, that all the Conversation he had with the Defendant about Mr. *James Annesley*, was from the 7th of *December* 1741, to the 2d of *May* 1742, at which time he was retained to carry on the Prosecution for the Murder.

That the Bill of Indictment was found against Mr. *Annesley*, *July* Sessions 1742, and that the Day of the Murder is laid in

in the Indictment the 1st Day of *May* in the 15th Year of the present King's Reign, being in the Year 1742; said, he was not concerned for the Defendant in any other Causes than what he before mention'd, and that they were all determined; said, the Conversation he had with the Defendant was not with an Intent that the Witness should be employed by the Defendant therein, for that the Defendant had employed Mr. *Gordon* and Mr. *Guard* two Attornies before, and that the Conversation was not with an Intent for the Witness to be employed in any Suit or Suits against the Lessor of the Plaintiff.

Lord Chief Baron. The Defendant's Council said, they would shew a Colloquium between the Earl of *Anglesea* and the Witness.——

Council for the Defendant. My Lords, we will ask the Witness a few more Questions about his being employed by the Defendant.

Witness, when was you employed to carry on the Prosecution? Answer'd, he was employed a Week after *May*, 1742, in the Prosecution.

Witness, had you ever any Instructions from *Gordon* or *Guard*, in any other Cause or Causes for the Defendant?

Answer'd, that he had never any Instructions from *Gordon* or *Guard*, but about the Prosecution, nor in any other Causes.——

Lord Chief Baron. The Witness having answered the several Questions aforesaid, is there any Reason why he should not be examined to the Conversation which happened before the first of *May* 1742.

Council for the Defendant. My Lords, we will ask the Witness some more Questions.——

Witness, did you charge the Defendant with any Term Fees from the latter End of *November* 1741, but to *February* following.

Answer'd, he was concerned for the Defendant to that time, and does not charge him any Term Fees after.——

Mr. Prime Serjeant Malone, for the Defendant. My Lords, this is the greatest Question and of the utmost Consequence to the Public in general as ever came before a Court.

Court.

Court. The Witness must go down that this Point may be spoken to, — and the Witness withdrew accordingly.

Council for the Defendant. My Lords, from what has come out of the Witness's Mouth when on the Table, it appears that he was Attorney for the Earl of *Anglesea* — and we will say no more to this Point till we hear what the Council for the Plaintiff will say to it, and beg leave to reply. — But we of Council for the Defendant say that the Attorney ought to demur to any Question asked him. —

Court. Council for the Plaintiff, Speak to the Point now before the Court.

Mr. Serjeant Tisdal for the Plaintiff. My Lords, the Question to be spoke to, is, whether the Witness lately on the Table shall be examined or not, he being formerly an Attorney for the Defendant the Earl of *Anglesea* in other Causes; My Lords, the Witness on his Examination denied on his Oath that he had any Expectation of being employed by the Earl of *Anglesea* against the Lessor of the Plaintiff when the Conversation happened between them, and we only produced the Witness to examine him to the Conversation he had with the Defendant, relative to the Plaintiff's Right to the Matter now in Question wherein the Witness is not employed, therefore this is no Secret in that Matter, he not being employed as an Attorney or Solicitor. My Lords, as to the Prosecution for the Murder that was to affect the Life of a Man, it is just and lawful to discover it, and does not intervene with the Oath of an Attorney as the Council of the Defendant wou'd urge, and the Conversation was long before that Fact happened.

Mr. W. for the same. — My Lords, I do admit that an Attorney shall not be Evidence in a Cause wherein he is concerned, and came to the Knowledge of that Matter as Attorney in the Cause, but if any Matter comes to his Knowledge, tho' an Attorney, and yet not concerned as Attorney in that Cause, nor doth the Matter come to his Knowledge as Attorney in that Cause, the Attorney in that Case shall be examined as a Witness. And this is now the Case before the Court; — can it be said or imagined that an Attorney once employed by a Person, that the Attorney's Mouth should be shut up for ever, that is unreasonable, when the Matter comes to his Knowledge not as an Attorney.

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Mr. H——d for the same. — My Lords, the Cases urged by the Council for the Defendant shew that the Attorney examined, was Attorney in that Cause, and the Merits came to his Knowledge barely as Attorney in the Cause, and if the Rules laid down by the Council for the Defendant, be allow'd it would totally subvert the Truth and Justice, and hide the blackest and worst Crimes. My Lords, if an Act of Parliament was made that an Attorney should not be a Witness in any Cause whatsoever, it would be against the Divine Laws of God, because Truth must not be stifled. My Lords, our examining this Witness is only as to the Defendant's Apprehension and his Declarations of the Plaintiff's Right to the Lands in Question, and not to the Prosecution for the Matter. — My Lords, if an Attorney receives from his Client any perpetrating Fact which would overthrow Justice, in that Case the Court cannot give the Privilege to the Attorney not to be examined, nor can any Protection be given by any Court to prevent the Discovery of mortal Actions. My Lords, if an Attorney was at a Tryal for Murder, and the Prisoner at the Bar call upon the Attorney to be examined as a Witness, whether the Witness on the Table was not bribed to give Evidence against him, and the Objection made on behalf of the Prosecutor that the Attorney ought not to be examined to that Fact. The Court would examine him, and not give a Protection, and in that Case the Attorney might give Examination of the Briberys against his Client. — And from what hath been urged by the Gentlemen who spoke of the same Side with him, hoped the Witness should be called and examined to the Matter of the Conversation and the Declarations of the Defendant's relative to the Lessor of the Plaintiff's Title, and submitted to the Opinion of the Court.

Court. Gentlemen of the Council with the Defendant you are desired to reply, and may go on, the Plaintiff's Council having submitted to the Opinion of the Court the Council for the Defendant replied.

Prime Serjeant Malone. My Lords, notwithstanding what has been offered by the Council of the Plaintiff that the Witness *Giffard* ought to be examin'd, I shall offer my Reasons to the Court to the contrary. My Lords, it appears from the Mouth of the said *Giffard*, that he was Attorney for the Earl of *Anglesea*, the now Defendant in this Cause, in several Causes from the Year 1722 to the Year 1741, and that there was a mutual Confidence between them. My Lords, if a Client should un-

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providently discover any thing to his Attorney no way relative to the Thing in Dispute or Question wherein he was not concerned as Attorney, yet he ought not to discover it, from the mutual Confidence and Relation between them ; ——— and if it was not from that Confidence no such Discourse would have arose between them ; and that the Conversation between the said *Giffard* and the Defendant is relative to the Matter now depending, and mentioned in the Case of *Say and Say*.

My Lords, an Attorney ought not to discover any thing, tho' the Suit is determined, in any other Matter that comes to his Knowledge during the Pendance of that Suit ; yet he ought not to be examined, for if that was admitted it might be in the Power of an Attorney or Council if they should be base enough to do it, they might ruin any Man.

As to an Attorney's Obligation to the Public, or to his Prince, it is a prior Engagement ; yet if he be retained to defend his Client, he ought not to disclose it.

My Lords, I will put this Case : If a Man kills another, and is indicted for the Fact, and no Person can prove it, but by what the Man disclosed to his Attorney, by telling him he killed the Man ; yet from the Trust and Confidence between the Attorney and his Client, the Attorney ought not to get up, and discover, or give Evidence of, that Fact, — and compared that Case to the Matter now upon the Question before the Court.

Mr. Serjeant General. My Lords, this Man, who is to be examined, is not a competent Witness, for, my Lords, the same Necessity of the Law that gives Privilege to a Person to employ Council and Attorney, at the same Time gives the Privilege of not disclosing what came to their Knowledge from their Client, — and mention'd the Case of *Say and Say*, and said, it is not much Matter to the Defendant, whether this Witness be examined or not, for from what he should disclose, being from the Confidence his Client reposed in him, the Jury will not credit him.

Mr. J. S. My Lords, the Privilege of an Attorney is to keep the Secrets of his Client, and not to discover them. And whether this Conversation was previous or subsequent, it is the same Thing from the Confidence reposed in him, and of his being employed afterwards in that very Prosecution ; — said, he knew no Case wherein a Client waived the Benefit of preserving the Privilege that his Attorney should not be examined as a Witness against him, but in the Case of a Deed, where the Client

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Client will have his Attorney a Witness thereto. In that Case, the Client waves the Privilege he might insist on, if he had not been a Witness, the Client in that Case making it necessary that his Attorney should be called on prove the Execution thereof, tho' he was Attorney for the Party at the Time of the Execution of the Deed.

Mr. T. L. My Lords, if a Bill was filed against the Defendant to disclose this Matter relative to the Trial for the Murder, he would not be obliged to disclose it, then the Attorney shall not under the Trust and Confidence reposed in him relative to that Matter discover it. And the Defendant can insist on that Privilege, and not suffer him to be examin'd, and that the Publick is more concerned in the Determination of the Matter, from the Discovery of Confidence between the Attorney and his Client, and hoped this Witness should not be examined.

Court. The Point now before the Court has been fully spoke to by the Chuncil on both Sides, the Court must give their Opinion, in order that this Trial may be proceeded on.

Lord Chief Baron. Every Case must stand upon its own Bottom, and not relative to general Cases.

The Question here is, whether the Witness came to the Knowledge of what he has by being Attorney.

The Policy of the Law must be complied with ; that is, to retain the Attorney ; but when he discloses as a Friend, he depends on him under that Notion. And this Court has nothing to do in this Matter, for it was in the Option of the Party not to disclose it ; but here this Witness is not retained, the Suit not being instituted. As to the Case mention'd in *Ventris*, is all relative to what came to the Attorney's Knowledge, when employed as Attorney in the Cause. As to the Case of *Say* and *Say*, that was upon a common Recovery, and a Deed to declare the Uses of the same, and no proper Tenant to the Precipe.—And mention'd a Case in Chancery, where Mr. *Hamilton*, an Attorney and Agent insisted on his Privilege not to be examined, because he came to the Knowledge of the Matter by being Attorney retain'd therein.—But this is not the Case now before the Court, and was of Opinion the Witness should be examined.

Mr. Baron M. From the Position and Cases laid down by the Defendant's Council makes against them ; the same being from the Confidence reposed as Attorney only in that Cause.

A Man's Declaration, that he would give Ten Thousand Pounds, to have a Man hang'd, is no innocent Expression, and must such a Matter never be discovered, because the Witness was once employ'd as an Attorney, is contrary to Justice, and the Public Good.—And agreed with the Lord Chief Baron.

Mr. Baron Dawson. That which came to the Knowledge of the Witness as an Attorney, and necessary to carry on the Prosecution ought not to be disclosed, but what the Defendant discovered to his Attorney not relative to the Prosecution he intrusts as his Friend, and upon that Confidence only; and therefore ought, for the Sake of Justice and the Public, to disclose the same. — And agreed, that the Witness ought to be examined.

Court. Call the Witness.

John Giffard, called and sworn,—and being examined, said, that some Time in the Month of *March* 1741, the Defendant, the Earl of *Anglesea*, had an Appeal depending before the House of Lords in *Great Britain*, with *Charles Annesley*; that the Defendant told the Deponent, that from the Trouble of the many Suits he was in, he would send for the Lessor of the Plaintiff, *Mr. Annesley*; if he would give him 3000*l.* a Year, he would surrender up his Right and Title to the *Anglesea* Estate, and other his Estates, and that he, the Defendant, would go and live in *France*, and would rather his Brother's Son should have it than any of the *Annesley*'s; for that if *Jemmy* (meaning the Plaintiff) had the Estate, he the Defendant should live happy and easy, for *Jemmy*'s Title could not be disputed, that he the Earl did not value the Title, he would go and live in *France*; and send for a *French* Master to teach him the *French* Tongue, and accordingly the Defendant sent for one *Bath*, a *French* Officer, to bear him Company for that Purpose; — said, this Conversation was in *May* 1741, and the Earl of *Anglesea* continued in the same Mind and Resolution till the First of *May* 1742, at which Time the Plaintiff, *Mr. Annesley* had shot a Man.

Said, that on the second of *May*, the Earl of *Anglesea* sent for the Deponent to carry on a Prosecution against the Plaintiff *Mr. Annesley* for the Murder, and to follow the Directions of *Gordon* and *Guard* with *Mr. Jones*, a Chirurgeon, who was concerned with the Earl of *Anglesea*; that the Deponent accordingly carried on the same by the Directions of the aforesaid Persons;

Persons ; that in two or three Days after the Earl of *Anglesea* told him, that he had consulted with *Gordon* and *Guard*, and that it was not proper for him to appear in it, and that he did not care if it should cost him ten thousand Pounds, if he could get the Plaintiff hang'd, for then he then would be eased and quitted in his Title and Estate ; said, it was the Defendant told the Deponent that he was advised it was proper for him not to appear in that Affair, but that the Deponent should from Time to Time call on Mr. *Jones* at the *White Cross* for Money, which he had ordered the said *Jones* to give the Deponent for that Purpose, that he called on Mr. *Jones* for Money, which he gave the Deponent accordingly : said, that *Jones* was Agent and Manager for the Earl of *Anglesea*.

Cross Examined.

Said, the Conversation was about the Tenth of *March* 1741, and believed that the Plaintiff Mr. *Annesley* was then in *England* ; said, he did not see Mr. *Annesley* till he saw him at the Bar for the Murder ; said, that the Defendant knew that Mr. *Annesley* had come to *England* and had employed Mr. *Patison* and Mr. *Kircher* against the Defendant to recover his Right ; said, he kept a particular Entry of all the Transaction, and a Day Book whereby he knew what he had done, and the next Morning made a particular Entry of all the Business he did the Day precedent ; said, he attended the Coroner's Inquest in order to find out Witnesses, and took Notes thereon in order to enable him to carry on the Prosecution ; said, no Examinations were given on the Coroner's Inquest, but what the Coroner took in Scraps of Paper, and the Evidence given *Viva Voce* before the Grand Jury by the Man's Brother that was shot.

Said, he applied to Sir *Thomas Reynolds*, a Justice of Peace, who took Examinations of the Fact, to let the Witness see the Examinations, and he refused it, and said he would not shew them until he would produce them in Court ; said, no Examinations were shewn him ; said, the Coroner's Inquest found the same *Wilful Murder*, and that Variance was in the Evidence on the Tryal from that given at the Coroner's Inquest ; said the Evidence was stronger before the Coroner than at the Tryal ; said, the Evidence on Behalf of the Crown on the Tryal was discredited in Court, and that *Paul Keeting* was an Evidence for the Prisoner, and that *John Eggleston* was the strongest Evidence for the Crown.

Said, he had Conversation with the said *Eggleston* and *William Williams* at the *White Cross* about the matter ; said, the Fact
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was said to be committed between One and Two of the Clock in the Day, and was said to be present, *John Egleson*, one *Fisher* and *John Edgeworth*; and said, there were Variations on the Tryal on the Cross Examination, from what was given before the Coroner.

Said, the Coroner's Inquest was held the fourth of *May*, and the Trial was on the 14th Day of *July* following; said, he understood the ten thousand Pounds to be given was to destroy the Plaintiff Mr. *Annesley*, and that he pursued the Directions given him for carrying on the Prosecution as far as he could.

Said, he often heard the Defendant call Mr. *Annesley* the Pretender, and said there would be assured more then the ten thousand Pounds, if the Plaintiff the Pretender was hanged, for that the Defendant, the Earl of *Anglesea*, would then have the quiet Estate and Possession without any Trouble; said, he did not think it a bad Prosecution when the Coroner's Inquest brought in the same *Wifful Murder*.

Said, that it was on the second Day of *May* he was sent for, and that one *Thompson* came for the Witness from the Defendant that he went were the Defendant was in Company, with a great many Persons, where there was great Rejoycings saying, that Mr. *Annesley* had now done his own Business, and had shot a Man.

That the Witness on the third Day of *May* went down to *Stains*, where the Murder was committed, and on the fourth of *May* he went there again on the Coroner's Inquest, and in the Evening of the same Day, the Earl of *Anglesea* met the Witness with his Coach and six to know how matters went; said, that it was the Church Wardens of *Stains* by Orders of the Earl of *Anglesea*, that employed the Witness to carry on the Prosecution, and that on the eighth Day of *May* he got his Warrant from the Church Wardens to carry on the Prosecution, and produced the Warrant on the Table in his Hand, and read it; — said, the Coroner's Inquest was his Foundation for engaging in that Affair, otherwise he would not.

Said, the Ballance due to the Witness for carrying on the Prosecution and the other Affairs for the Earl of *Anglesea*, is three hundred and forty Pounds, subject to a Taxation; — said, it was *Thompson Gregory* came for the Witness and was out in Company with *Jones*; said, it was not by the Witness's Directions that the Letter was sent to him by the Church-Wardens, but by Order of *Gordon* and *Guard*, and by the Witness's Privity, that the Earl of *Anglesea* should not be seen to appear in it; — said, that it was on a Consultation with *Gordon*, *Guard*, *Jones*, and the Earl of *Anglesea*, that the Matter was

to be done by the Church-Wardens, and to call in Assistance with the Witness the better to colour the Prosecution.

Said, he knows of no Witnesses being bribed to give Evidence on the Trial, but that it was known and understood at the Time of the Trial, that Mr. *Annesley* would sue for the *Anglesea* Estate.

Said, if Mr. *Annesley* should carry this Suit the Witness will loose every Fathing of his Bill of Costs.

Said, he sued the Earl of *Anglesea*, for his Bill of Cost, on which the Earl filed a Bill against him in the Court of Exchequer in *England* to discover his Bill of Costs, and the Suits the Witness was concerned in for him.

And upon the Witness's answering the Bill, and annexing the Schedule to his Answer, it then came out that the Earl of *Anglesea* was concerned in the Prosecution for the Murder, and not before.

Here one of the Council for the Defendant, said, that the Witness was an incompetent one, and ought not to be credited.

Lord Chief Baron. The Witness answering the Questions put to him of his being an Attorney, can't go to an Imputation of his Character, when the Court said, the Evidence he was to give is Law.

Council for the Defendant. Witness, Had you any other Clients but the Earl of *Anglesea*.

Witness said, he had many Clients and Men of Honour that paid him, and would not make this Discovery if he could prevent it, for it was the Seeking of the Earl of *Anglesea* by filing the Bill against the Witness which he answered that the Discovery was made and the Persons concerned for the Plaintiff Mr. *Annesley* found it out, that the same being Matter of Record they could have got Copies thereof, and then they applied to the Witness for the Truth, he told them and made an Affidavit, or was examined before a Master in Chancery.

Council for the Defendant. Witness, Is the Defendant the Earl of *Anglesea* a passionate Man, and was not he in a Passion at that Time when you say the Conversation was.

Witness said, the Defendant is a passionate Man, but was not at the Time of the Conversation in any Anger or Passion, but serious; said, that the Defendant the Earl of *Anglesea* was then
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at Difference and Dispute with the *Annesleys* when the Defendant made the Expression, and that no Persons were present at their Meeting but were always private; said, he swore in *London* before on a Commission the Declarations that the Defendant the Earl of *Anglesea* made to him concerning the pretended Mr. *Annesley*,—said, it was Mr. *Kircher*, Mr. *Patison* and others being concerned for the Plaintiff Mr. *Annesley* that applied to him first to come over here to be a Witness in this Cause, but that he was not subpoena'd, but declar'd they would compel him to do it as being but Justice, and thereupon he came over to this Kingdom for that Purpose.

Said, he often heard the Defendant the Earl of *Anglesea* say that the Pretender, as he called the Plaintiff, was transported for stealing a Silver Spoon, and often heard him also say that the Plaintiff Mr. *Annesley* was his own Bastard, and his Brother's Bastard, and that he had got a Child by *Joan Landy*, and had put the Child on the Lord *Altham* his Brother, for that his Brother was better able to maintain it than he was;—said, the Discourse about the Bastard was at the Earl of *Anglesea*'s Lodgings, and that one *Rolph* was by, and the Earl said, that there was *Rolph* who could prove it.

Richard Baily, Gent. sworn, and going to be examined, he objected himself that he should not be examined as a Witness in this Cause being a Person in Interest;—that he was a Purchaser under the late Lord *Altham* and the present Defendant the Earl of *Anglesea* to part of the *Anglesea* Estate, which he purchased and paid the Lord *Altham* 300*l.* for making the Witness a Lease in Reversion after the Death of the late Earl of *Anglesea*, and gave 100*l.* to the present Earl for confirming the same; both which Deeds he had then in his Hands to produce to the Court, that he never was paid back his Money nor got Possession of the Land, and had a Right to sue for the same, therefore submitted to the Judgment of the Court whether he should be examined.

Court. He is not a competent Witness having a Bias on him—and the Witness withdrew.

Council for the Plaintiff. My Lords, we have many other Witnesses to examine for the Plaintiff, but rest here now, with Liberty to produce other Witnesses if Occasion there be, when the Witnesses for the Defendant are examined.

Court. Council for the Defendant, the Earl of *Anglesea*, go into your Defence. Mr.

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Mr. *Attorney General*, of Council with the Defendant,——
My Lords, and the Gentlemen of the Jury, this Trial hath already taken up many Days and many Witnesses have been examined on the Part of the Lessor of the Plaintiff —My Lords, before I shall enter into the Defendant's Case and lay the same before the Court and Jury, it is necessary forme first to observe the several Steps taken on this Trial on Behalf of the Lessor of the Plaintiff.

And First, my Lords, they have endeavoured to shew Lady *Altham* had a Son—of his being Christned,—his Nurfing, and being brought home.

Secondly, of the Lord and Lady *Altham*'s Separation, which is admitted.

Thirdly, Of the Son's removing to several Places where Lord *Altham* had resided,——as at *Kinna, Carrickduff, Stephens-Green, Cross-Lane, Proper-Lane, and Inchicore.*

Fourthly, Lord *Altham*'s acknowledging him to be his Son, and the Means of his abandoning him.

Fifthly, Of the Defendant the Earl of *Anglesea*'s Transporting him.

Sixthly, Of his Trial for Murder at the Defendant's Prosecution.

These were the Steps, my Lords, as I conceive that the Lessor of the Plaintiff, or those concerned for him, endeavour to lay Evidence before the Court and the Jury to induce them to believe, that Mr. *Annesley* the Lessor of the Plaintiff, is intitled to recover this Estate. My Lords, in order to see how that Matter stood, and to shew the Defendant's Title it will be necessary to shew the State and Circumstance of that Family.

My Lords, an Estate of 1200 *l.* a Year, which *Arthur* Lord *Altham* had sold —— the other Estate he was only a Tenant for Life of, and to go to his Issue Male, and for want of Issue to *Arthur* late Earl of *Anglesea*, Remainder to the Defendant as appears by Wills and Codicils.

My Lords, *Arthur* Lord *Altham* had a greater Prospect of an Estate in Value than that he had sold.

My Lords, *James* Earl of *Anglesea* being the Common Ancestor on the Restoration he had five Sons:

John his Eldest, who died without Issue.

Richard his second Son, who had two Sons, *Arthur* late Lord *Altham*, and *Richard* the Defendant now Earl of *Anglesea.*

James his third Son, who had Issue, *Arthur, Richard* and *James.*

Arthur his fifth Son, who had no Issue.

Earl *James* levied Fines and suffered Recovery of his Estate, and by his Will, 14th of *May* 1701, and limited an Estate to *Richard* Lord *Altham*, the Defendant's Father, and that Day made a Codicil. In *December* 1701, Earl *James* made another Will, *Richard* Lord *Altham* the eldest Son of *Richard*, and to his first and other Sons in Tail-Male, Remainder to his Uncle *Charles*; and the Defendant *Richard* then was alive and the only Heir Male in the Family was cut out of the Will.

That a Dispute happening in the Family after the Death of *Arthur* late Earl of *Anglesea*, on the Will and Codicil of the 14th of *May* 1701, which of them should prevail, it was doubted whether the Estate should go over to *Charles Annesley* and not to the Defendant; that from the Prospect of so large an Estate it would have drawn the Attention of all the Family, if *Arthur* Lord *Altham* had a Son at the Time pretended, as in the Year 1715.

My Lords, what we are now to prove and give Evidence of, to the Court and the Jury, we must take the same Steps that the Plaintiff did, and to shew, first that Lady *Altham* never had a Child, or miscarried; secondly, an Account before her Ladyship's coming to *Ireland* in the Year 1713; of her going down to *Dunmeau*, and the Separation. Thirdly, that the pretended Birth at *Dunmeau* in *May* 1714, that her Ladyship was visited by the best Families in that County, or any other Country, that they never heard of her Ladyship's having a Child, that in Spring 1715 her Ladyship was at *Wexford* Assizes; of her coming to Town in the Month of *May* in the same Year, and then, my Lords, we will call the principal Servants of the Family, and different Sorts than these examined for the Plaintiff, that Lady *Altham* never had a Child at *Dunmeau*.

My Lords, whether the Fact in the Negative can be proved, yet the Defendant will do it as near as possible, and perhaps without any Doubts to remain.

My Lords, we will prove that instead of Lady *Altham's* saying she had a Child, that she lamented the Loss of not having one, and will also give Evidence of Lord *Altham's* Expressions relative to his not having a Child. We will give an Account of the present Mr. *Annesley*, the Lessor of the Plaintiff, from the Day of his Birth to the Time of his leaving this Country.— That the Plaintiff Mr. *Annesley* is *Joan Landy's* Child, that *Joan Landy* was at Lord *Altham's* House a Servant at the Time Lady *Altham* went to *Dunmeau*, that when *Joan* grew with Child, that she was turned away, went to her Father's *James Landy's*

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Landy's House, and was brought to Bed there ; — of that Child's Christening and how he came to be brought to the Lord *Altham's* House after the Separation ; — and that he was owned and considered as his Bastard only, and that Lord *Altham* ordered him to be kept from his Mother *Joan* ; that the Child pretended to be dead that *Joan Landy* had, is not, but that the present Plaintiff *Mr. Annesley* is the very same Person, and that he was at School at *Dunmeau*, that at *Kinna* he was neglected, and his Mother *Joan Landy* took him away from there ; that of his being at *Carrickduff*, and the Manner he was treated there by several Persons related to the Family ; of his coming to *Dublin* after and mentioned as Lord *Altham's* Bastard ; that Lord *Altham* turned him away, being incorrigible, and reputed in *Dublin* to be only the Bastard of Lord *Altham* ; that he was in *Dublin* in the meanest and lowest Condition, and reputed a Bastard in and about the College.

And as to the Defendant's spiriting the Boy away, the Plaintiff has shewed it was legal.

My Lords, we will prove his Application to the Defendant to know how he should go abroad as a Servant, that when he was on Shipboard he shewed himself openly, and was spoke to ; that he went by promiscuous Names of *James Annesley* and *James Landy*, and as to the Prosecution for Murder, we will give the Court and the Jury a better Account of it, then the Person examined ; and from the which it will appear that the Plaintiff is the Son of *Joan Landy*, and not of Lady *Altham*.

My Lords, we will shew that *Mrs. Heath* was Servant Maid to Lady *Altham* till her Death, which, happened in *England* in the Year 1729, her Ladyship knew of the Death of her Husband for two Years before she died, that she never was in *Dublin* before she went over to *England* ; that she never inquired for her Son, never spoke one Word of her Son.

These are the several Facts we shall lay before the Court and the Jury, I shall not take up any more of your Lordships Time, but we will call Witnesses to prove the several Facts I have mentioned to the Court and the Jury.





Witnesses for the *Defendant*.

NICHOLAS *Loftus*, Esq; who being duly sworn and examined, said, he lived at *Loftus-Hall* in the County of *Wexford*, thirty-five Years and knows *Dunmeau*, which is eight Miles distant from his House, that he heard Lord and Lady *Altham* lived at *Dunmeau*, but that he never visited them; said, he never heard that Lady *Altham* had a Child at *Dunmeau*, nor did he hear of any Rejoycings there; said, he knows Alderman *Thomas Barnes*, and was at his House last Summer, and that he is impaired in his Health.

Council for the Plaintiff. My Lords, we object to the Questions proposed by the Defendant's Council to the Witness, concerning the Understanding of his Notions of Alderman *Barnes*'s Memory. My Lords, Alderman *Barnes* was on the Table, he was examined, the Defendant cross examined him. The Court and the Jury are proper Judges of the Testimony he gave, and of his Understanding and Memory.

Council for the Defendant. Mr. *Loftus*, what Estate has the Earl of *Anglesea* in the County of *Wexford*?

Witness answered, The Earl of *Anglesea*'s Estate in that County is about four thousand Pounds *per Annum*.

Was asked upon what Terms *Arthur* late Earl of *Anglesea* was in, and where the Witness was in the Year 1715; said he knew not what Terms they were in, the Witness not being acquainted with them, and believ'd he was at home at his own House at *Loftus-Hall* the Year 1715; said he saw a Lady called Lady *Altham* at *Ros*.

Cross Examined.

The Witness was asked where he was in the Years 1713, 1714 and 1715.

Said,

Said, that in the Beginning of the Year 1713 Lady *Besborough* died, and he spent most Part of that Year 1714 at Lord *Besborough's*, and the Year 1715 he was settled at home.

Thomas Pallisser, being sworn to the *Voire dire*, said, he has no Lease, nor ever had one under the Defendant, nor does he get or loose by the Success of this Cause.

And being sworn in Chief, and examined, said, that he knew *Arthur* late Lord *Altham* and his Lady, knows *Dunmeau*, and that he lives two or three Miles from it, at a Place called the *Great Island*, and knew that Lord and Lady *Altham*, resided at *Dunmeau* and during the whole Time they were there. The Witness and they frequently visited one another; said, he heard that *Joan Landy* had a Child by the Lord *Altham*, and is satisfied in his Conscience that Lady *Altham* never had a Child whilst they lived in the County of *Wexford*, said, he never knew her Ladyship to be sick all that Time, and visited her once a Fortnight and never heard or saw her with Child, nor ever heard that she was confined to her Chamber on any Indisposition or Miscarriage, and if she had, he should have heard of it as soon or sooner than any Person in the Neighbourhood.

Said, he saw Lady *Altham* at Church, and did not observe her to be with Child; said he could not recollect how long since the Separation was or when, but believed her Ladyship remained at *Ross* about two Years after, and that *Dunmeau* is about three Miles from *Ross*, said, he never heard Lord or Lady *Altham* say any thing about their having or not having any Child; and that he is satisfied that Lady *Altham* never had a Child, for if she had he and all the Country must have heard of it, and was never a Month together from seeing them or one of them, said, he was not two Months or six Weeks at a Time without seeing Lady *Altham* whilst he was at *Dunmeau*; said, he never heard of any Child being there, nor was any Child ever shewn to him, said, he knew a Woman there called *Joan Laffan*, and she was turn'd away for Whoring, and swore, that the said *Joan Laffan* was not to be believed on her Oath, and that his own Opinion of her is, that she is not to be believed on her Oath, and all the Parish believes it also.

Cross Examined.

Said, he did not know where he lived in the Year 1713 or 1714, but that he lived backwards and forwards in the Barony of *Forthand* County of *Wexford*, and was building there, and believed he was not six Weeks at a Time from the Barony of *Forth*,

Forth, that he kept his *Christmas* in the *Great Island* in the Year 1714, but knows not where Lord and Lady *Altham* was in that Month, nor could he recollect whether he saw them from the first of *September* to the first of *December* 1714; that it is eight Miles distant from the Barony of *Forth* to the House of *Dunmeau*, that he kept only Seventy Acres of Land in his own Hands, and believed he did not stay in the Barony of *Forth* for a Month or six Weeks together, unless he had the Gout, that in the Year 1712 he purchased the Land in the Barony of *Forth*; and about two Years after begun to build there, but could not take upon himself to say, whether he was two Months together in the Barony of *Forth*.

Said, there was a Dispute between Lord and Lady *Altham* at the Separation wherein the Witness's Son was ill used, and could not be positive whether in the Months of *May*, *June*, or *July* 1715; he saw Lady *Altham*; said he knew Captain *Briscoe*, but did not know or remember to have seen either his Wife or Daughters at *Dunmea*, they not living in that County, but heard that it was Captain *Briscoe* that brought Lord and Lady *Altham* together on the Reconciliation, and took it that it was said *Briscoe*, if he could be sure of any thing he did not see, that brought Lady *Altham* first down to *Dunmeau*, that the said *Briscoe* was his old Acquaintance at *Dundalk*, but did not see him at *Dunmeau*.

Said, the Year of the Duke of *Ormond*'s first Sale of his Estate; that he went to live at the *Great Island*, and began to build there when Lord *Galway* was in the Government, and went that way his Lordship went to see the Witness and that before then for a Year or two he lived in the County of *Kilkenny* under the Lord *Tyrone*, that the Duke of *Bolton* was then in the Government; that in the Year 1713, he lived in the *Great Island*; and that in the Year the Duke of *Ormond* was in the Government here, he made the above Purchase; said, Lord *Galway* was twice in the Government here, the first was in King *William*'s Time, and the second about the Time he lost his Hand.

Said, he went to the Fort of *Duncannon* to wait on Lord *Galway*, who then saw Part of the House the Witness was building; and his Lordship said he would make him High-Sheriff of the County of *Wexford*: Which he did. This was in King *William*'s Time, about Forty-three or Forty-four Years ago; believed he was about Three Years building the House, and believed that as soon as it was built he went to live in it.

Said he could not tell when Lord and Lady *Altham* came to *Dunmeau*, but that Lord *Altham* went to live there before her Ladyship;

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Ladyship; that he remember'd the Death of Queen Anne, and the coming in of King George the First, but would not take upon himself to ascertain the Time when he first knew Lady Altham, whether it was a Year after the Death of Queen Anne, but that he knew them both during the Time they were at *Dunmeau*, till the Time of their Separation, but did not know, whether he knew Lady Altham in the Year 1720, but believ'd to the best of his Memory, his Acquaintance first began with her about Twenty-six Years ago.

Said, he was living in the *Great Island*, when Lord and Lady Altham came to *Dunmeau*, and in some short Time after he paid them a Visit; ——— which was about the Beggining of Summer, and that they lived there between Two and Three Years, and believ'd that Lady Altham came up to Parliament with her Lord, but that they did not stay four or five Months, that he paid one Visit to Lady Altham in *Essex-Strret*, but did not see his Lordship, but saw Lady Altham several Times at *Dunmeau*.

Said, he was then a Member of the House of Commons, and did not stay a Winter together in *Dublin*, and could not be positive how long Lord and Lady Altham were at *Dunmeau*, before they went to *Dublin*.

Said, Lady Altham might have kept her Room for a Week, but if she was a Week keeping her Bed, he should have heard of it; that he was intimate with all the Visitors that came to *Dunmeau*; especially with the Neighbours, and said, that if a Visitor had come there, and staid there a Month or two, he should have known or seen them; but did not remember to have seen the Daughters of Captain *Briscoe* there; said, he never heard nor was present when *Joan Laffan* was on her Oath, but heard she was examined as a Witness for the Plaintiff, and went over to *England* for that Purpose, and that he knows *Dennis Redmonds*, that he was a Servant in Lord Altham's Family, and used to rub the Horses Heels, and saw him about this Time was Twelve Months, and believed not since.

Said, that he knew Mrs. Piggott, that she visited at Lord Altham's, and that he saw her there, believed that Lady Altham could not have miscarried in two Years and a half but he must have heard of it; believed that he was in *Dublin* when the News came of the Rebellion being in *Scotland*, and saw Lord Altham at the House of Lords at that Time, and that he had then lost his Eye; that Colonel *Pausonby* came into the Speaker's Chamber and said, there was bad News, for that the Pretender had landed in *Scotland*, and said, his Acquaintance with Lord Altham was before that Time, could not tell the Month he came

came up to Parliament in that Year, but that he was present and gave Consent to Mr. *Connoley's* being chosen Speaker to the House of Commons, and believed he was in *Dublin* about a Week before, and saw the Speaker put in the Chair, and that he came then from the *Great Island*, and before then was backwards and forwards in the Barony of *Forth*; said, at the Time he saw *Redmonds*, *Redmonds* called at his House, and was then breaking a Horse for Lieutenant *Orfure*, that he asked *Redmonds* what he knew of the Affair going on between the Parties in this Cause, that *Redmonds* answered, all he knew was, that he was sent for a Midwife to *Rosi*, that he brought her to *Dunmeau* House, and dropp'd her at the Gate, and then put up his Horse, but for whom and on what Account he was sent or brought the Midwife, he knew not; that the Witnesses then told *Redmonds* that his going or not going to be a Witness in this Cause would signify nothing, on which *Redmonds* said he would not go; said, that Lord *Altham* lost his Eye at *Buncony*, but never saw his Lordship after at *Dunmeau*.

It was ten o'Clock at Night when this Witness had done his Examination. Then by the Consent of the Parties the Court adjourned till the next Morning at nine o'Clock.



The Sixth Day of the TRYAL.

Thursday November 17, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appear'd in the Jury Box, and being seated together.

Court. Gentlemen for the Defendant proceed with your Evidence.

Council for the Defendant. My Lords, we will call *William Wall*, Esq; a Member of Parliament, who was concerned as Attorney

Attorney for *Arthur* late Lord *Altham*, who drew up the State of his Lordship's Case for Council's Opinion relative to his Lordship's Title to his Estate, and his Lordship's Declarations relative to the Plaintiff Mr. *Annesley* in this Cause.

William Wall, Esq; sworn to the *Voire dire*, said, he had a Lease from *Arthur* late Lord *Altham*, that the same is subsisting, but looks upon it as nothing; that the Lands demised in the Lease lie in the County of *Dublin*, that he gave Fifty Pounds Fine to *Arthur* Lord *Altham* for making him the Lease in the Year 1724; that, he never got Possession of the Land, his Lordship having no Title thereto, his Lordship's Ancestor having sold it before, the same being the Estate of Lord *Langford*, that he got a Promisory Note from Lord *Altham* for the Fifty Pounds, and that the same is still due.

Court. This Witness has no Interest to be bias'd by.

Mr. *Wall* sworn in Chief, and being examined, said he knew *Arthur* late Lord *Altham* and his Lady, and that he was conversant with his Lordship in 1715 or 1716, and so continued to the Time of his Lordship's Death; but did not know her Ladyship till she came over to this Kingdom; that he was conversant as Attorney for his Lordship, and drew a State of a Case for his Lordship out of the Earl of *Anglesea's* Will, and three Codicils in the Year 1725, and had Council's Opinion, as to Lord *Altham's* Title, that he could levy a Fine, and bar his Issue Male, but could not suffer a Recovery.

Council for the Plaintiff. My Lords we object to this Witness any Thing relative to his drawing Cases, or of Council's Opinion.

Council for the Defendant. My Lords, we will examine Mr. *Wall* as to the Conversation he had with the Lord *Altham* about the Plaintiff, and his Knowledge of Lady *Altham*, before we examine him as to Council's Opinion on the Case.

Said, when Lady *Altham* came over the Lord and Lady *Altham* went to live at Mr. *Vice's* in *Essex-Street*, almost facing the House where the Witness then lived, that they went afterwards and lived at *Dunmeau*, in the County of *Wexford*, and that the Witness was often there, and never heard that his Lordship had a Son, for if he had, the Witness should have heard of it; that his Lordship never told him, that he had a

legitimate Son, but told him that he had an illegitimate one, and that his Lordship often wished that he had a legitimate Son; said, this Information was some short time after the Year 1725.

Said, in the Year 1727 or 1728, he saw a Boy at *Rofs* that was said to be Lord *Altham*'s Son; that he blamed his Lordship for not taking more Care of the Boy, that his Lordship made Answer, that he was doubtful whether that Child was his, for if he thought he was, he would take better Care of him; that he had that Child by *Joan Landy*, and that several others had to do with her; said, the Boy was then in a mean Habit, and was facing the Inn of one *Breham*'s House in *Rofs*; said, he knew *Arthur* Earl of *Anglesea*, and that Lord *Altham* and he had great Variance together, and that Law-suits were between them, and Bills in the Court of Chancery in this Kingdom.

Said, he knew not what became of the Estate after the Death of Lord *Altham*; that his Lordship and his Brother, the present Earl of *Anglesea*, were sometimes in, and sometimes out, for that Lord *Altham* would have the Defendant join him in selling the Reversion of the *Anglesea* Estate, and that the Defendant refused it for the whole, but sometimes join'd in selling some Part, that the Defendant might get some of the Money for himself; did not know what Age the Boy was of; said, his Knowledge of Lady *Altham* is on his Memory when she lodged at *Vice*'s, that he never visited her there, and believ'd not above twice at *Dunmeau* before they parted; that he saw her there, and then but at Dinner, having never lain at the House, but lay at *Rofs*; said, that he did not observe that she was with Child, nor never heard that she had a Child by her Lord during the Time they lived together; but heard she had a Child by one *Segrave* in *Holland*, and before she came to *Ireland*; and that the Child was dead, and that it died after that Lord and Lady *Altham* lived together; said, that his Lordship never told him the Motives that induced him to take with his Lady; and all that he heard was that Lord *Altham* at the Time of his Death had no legitimate Issue; said, he should not know the Boy he saw at *Rofs* again.

Cross Examined.

He was ask'd by the Plaintiff's Council as to the Conversation with Lord *Altham* at *Rofs*? Said, that he never had any Discourse with his Lordship but once about the Boy, about the Years 1724, 5, 6, 7, or 1723, but in which of those Years he

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he could not remember, but believ'd the Discourse at *Ross* about the Boy was after his taking Council's Opinion; said, that Matter was not of any Consequence to him, and therefore did not take so much Notice of it, but believed that Lord *Altham* resided at *Dunmeau*, but whether her Ladyship was there he knew not, and believ'd the Boy was about six Years of Age.

Said, he was every Year in *Ross* from the Year 1707, whilst he went the Circuit, unless when he was in *England*, to the Year 1720, and believed till the Year 1730; believed it was *Edward Breham* that kept the Inn that told him the Boy was the natural Son of Lord *Altham*, and that it was in some short Time after that he spoke to Lord *Altham* about him, but that it was not at any of the Times he made the Visits to *Dunmeau*; says, he remembers the present Accession of his Majesty in the Year 1727, but whether it was in that Year he had the Discourse he could not remember, but that it was either in 1725, 6, or 1727; said that he was not concerned for Lord *Altham* till his Lordship recovered the Estate against the Earl of *Anglesea*, and got Possession, which was to the best of his Remembrance before the Year 1720, and that he was concerned before and after he went to *Dunmeau*; said, that his Lordship was in very low Circumstances at the Time of selling the Reversion of the *Anglesea* Estate, and that if his Lordship had a Son he could have sold the same for more Money.

Aaron Lambert, Esq; being sworn to the *Voire dire*, — said, he was not Tenant, nor is not, to any of the *Anglesea* Estate, or is he either to get or lose. And being sworn in Chief and examin'd, said, that he knew both the late Lord and Lady *Altham*, that in the Year 1711, Lord *Altham* took the House of *Dunmeau* from him, and in that Year went to live there, and that in two Years after her Ladyship went there and lived for two Years and a half, during which Time the Witness lived at *Ross*; that on his Lordship's going to live at *Dunmeau*, the Witness lent him 400 *l.* and his Plate.

Said, that after Lady *Altham* went there, he visited them mostly every Week; the Witness constantly dunning the Lord *Altham*, his Lordship being in his Debt, that he never observ'd her Ladyship to be pregnant, and never heard that she had a Child or ever saw any Child about the House; said he knew *Joan Laffan*, for that he being disorder'd he went from *Ross* to *Dunmeau* for the Benefit of the Air, and Conveniency of a Surgeon, Mr. *Sutton* who was there, who came over with Lord *Altham* from *England*; said, the Time he went to

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Dunmeau was after Lord *Altham* went to *Dublin* to raise Money on the Reversion of the *Anglesea Estate*, and that *Joan Laffan* attended the Witness whilst he was there.

Said, that Lord *Altham* left *Dunmeau* House to one Mr. *Unack*, who went to live there the *May* after his Lordship had quitted the same; said, one *Taylor*, *Joan Laffan*, and *Sutton* were in the House when his Lordship left it, and that *Sutton* had broke Gaol in the *Mint*, made his Escape, and came over with his Lordship; said he saw *Taylor*, *Sutton*, and Lord *Altham* at *Ross* together, and that after her Ladyship came over, *Sutton* was turned out of the House for drinking too much of Lord *Altham*'s Wine, and that he then went to live at *Ross*; said, that about two Months after *Sutton* was turned out of the House, and after her Ladyship went to live at *Dunmeau*, *Sutton* was at Dinner with the Witness when a Servant of Lord *Altham*'s came from *Dunmeau* to *Sutton*, desired *Sutton* to go and attend her Ladyship, that *Sutton* went to the Door, and having returned told the Witness he would not go, and the next Day he was sent for, and he would not go, and the third Day the Chariot came for *Sutton*, and he went there, and stay'd a Fortnight; that *Sutton* told him the Reason he did not go, when sent for was, that he was piqued at being turn'd out, and would not go, and said, Damn her, I will keep her in Punishment.

Said, he did not know a Place called *Farren*, nor of any Person that practised as a Chirurgeon of the Name of *Brooks*, but heard there was such a Family as the *Brookes* that lived at *Fookes Mill*, but noon at *Farren*; that Lord *Altham* left *Taylor*, *Sutton*, and *Joan Laffan* at *Dunmeau* when he left it; that *Joan Laffan* attended the Witness for a Fortnight, and that she was both a Whore and a Thief, and that no-body would believe her in his Opinion if she swore all the Oaths in the Universe, that she was an obscure Person in the Family, that he never saw any Child there, or her taking Care of any.

Said, the Day of the Separation Lady *Altham* came to *Ross* in a four Wheel Carriage, and near duskish, and that there were with her the Coachman, her Ladyship and her Maid call'd Mrs. *Heath*; ——— that her Ladyship alight at the House of Captain *Butlers* at *Ross*, that the Witness did not visit her there; ——— said, that most of the People of the Town turned out to see her Ladyship come into Town, having heard of the Accident that happened about ten of the Clock in the Morning of the same Day; said, a Year or two before Lord *Altham* went to live at *Dunmeau*, one *Landy* came as a Cottier to live with the Witness, that he had two Daughters one called *Joan*, but whether

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whether she was afterwards a Servant at Lord *Altham's* he knew not, but saw her about the House, that the other Daughter went into the County of *Kildare* to work, and was married, and called by the Name of *Dunn*.

Said, Lord *Altham* and the Defendant was sometimes like Brothers and sometimes like Enemies, and remembred that the Defendant came once to *Rofs* to the Witness and said, Damn that *Moll Sheffield* she can't agree with me on Account of my Principles, — said, he never heard that Lord *Altham* had a Child, and the general Reputation of the Country was, that his Lordship died without Issue, and believed he could not have had a Child without his Knowledge; — that his Lordship's Estate was in and about *Rofs*, and that *Taylor* received his Lordship's Rents.

Cross Examined.

Said he believed he might have been a Month away, but believed he was not two Months absent at a Time from being at *Dunmeau*; that he was in the Army and married the Year that Lady *Altham* came over to *Ireland*, but about what Time of the Year he was married, or whether in the Summer 1714, he did not know, or remember; that he continued in the Army untill about sixteen Years ago, but was not in the Army until the Year that Lord *Altham* went to live at *Dunmeau*; that the next Year he was in *Dublin*, and the Year following at *Rofs*, and that the Regiments changed Quarters every Year then, as they do now; said, to the best of his Remembrance the Regiment he was first in being *Gledstone's*, they were broke in the Year 1715; that he used to get Leave from his Officer to go down to the Country after he had done his Duty, but could not tell whether he was a Month at once on Duty; that he was in *Dublin* in the Summer 1715 on Duty, and the other Squadron of the Troop was at *Mullingar*, and that he went down several Times to that Country, and was never three Months without seeing *Dunmeau*.

Said, he was paid some of the 500 *l.* that Lord *Altham* owed him, and some is due to him yet; that *Sutton* was an infirm Man with the Gout, and might be a Month together therein, did not remember where his Regiment was at the Death of Queen *Anne*; said, he has had a Fit of Sicknefs for sometime which had impair'd his Memory, but as to what is relative to this Affair he remembred very well.

Said, if it was not for doing his Country Justice, and upon this strange Affair he would not leave his own House on any Account;

Account ; but such an Attempt made on the Earl of *Anglesea*, he would come in a Horse-Litter tho' not sent for ; that after he left Duty in *Dublin* he went to *Mullingar*, and next to *Car-rick on Sure*, that their Quarters generally continued for a Year, but by cantooning and badness of Barracks they removed ; could not tell what Barracks he had been in from the Death of the Queen to 1720, but well remembered the coming of the Coach for *Sutton* ; nor could he tell the Year he was married in ; ———— said, he knows *Paul Keating* that Fellow at *Ross* and believ'd when he saw him last was about half a Year, and had Conversation with him, whether Lady *Altham* had a Child ; that the Witness asked *Keating* did he believe that any Child could be born of a Virgin, but all the Country must know it ; but our Lord is not to be proved born but by two common Whores ; that it was impossible Lady *Altham* could be brought to Bed, or have a Child without the Witnesses Knowledge ; said, he was informed Lord and Lady *Altham* came to *Dublin* one Parliament-Winter.

Said, he knew Colonel *Dixon*, and that the Witness's Mother was married to him, and lived at *Colverstone*, where the Witness spent some of his Time, but constantly would go to *Dunmeau* ; that he and Lord *Altham* had a Falling-out, but did not remember that he made any Affidavit about this Affair, nor has he any Protection from the Earl of *Anglesea* ; the Lord *Altham* was inconsistent with himself that they would have frequent Fallings-out, but caused no Coolness for that they would be out and in, in two Minutes, and assign for a Reason that particularly in *Dublin*, Lord *Altham* strove to break the Witnesses, and yet coming out of the *Castle-Yard* his Lordship invited him to dine with him ; heard that Mrs. *Piggot* visited Lady *Altham* but seldom, never heard or saw Mrs. *Brisco* or any of her Family at *Dunmeau* ; that Mr. *Brisco* was turned out of the Collection of *Wexford*, went to *England* to the Duke of *Buckingham*, and came over with Lady *Altham* when she was reconciled to her Husband, that he lived at *Dunmeau* when he was a Second to a Gentleman in the County of *Kildare*.

William Elms, Farmer, who being sworn and examined, said, that in the Year 1714 and 1715, he lived at *Newtown*, within one Mile of *Dunmeau*, and knew when Lord and Lady *Altham* came there, and visited them some Years after ; said he resorted to the House after Lady *Altham* came there, and knew her by Eye-sight, but was never introduced to her, but knew and was well acquainted with the Servants, the Servants were *Anthony Dwyer*, *Joan Laffan*, *Rolpb*, one *Cavenagh*, Mrs. *Heath*, and

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Joan Landy was Kitchenmaid and with Child, when *Lady Altham* went to *Dunmeau*, and left the House not long after, and had a Child; his Reason for knowing she had a Child is that her Brother was a Cottier on his Land, that he went there and saw her with Child, that she went after to her Father's and was there delivered as her Brother told him; that he afterwards saw *Joan* and her Child at her Father's, the Child being a Week or Fortnight old, that he asked *Joan* whose Child that was, she said it was my Lord's; that *Joan* was not then a handsome Woman, how she was now he did not know.

Said, that he saw the Child a Year after, and saw him after *Lady Altham* left *Dunmeau*, and that he was then three Years old, saw him at the Age of two Years old at the Lands of *Col-lough* and *Dunmeau* about a quarter of a Mile from the House, that there was no Road to the House, but a Slough which was cleared, and that there was two Stone Pillars, that the Child was ragged, and *Joan* lived at her Father's.

Said, he went one Day to *Dunmeau* House after *Lady Altham* had left it, and saw the Child there, and that *Joan Landy* came and was peeping at the Gate, that the Boy was in the Way, that Lord *Altham* called for the Hounds and bid them set the Dogs on her, and his Lordship said, he would not for five hundred Pounds that the Child should know, that that Whore was his Mother, and that his Lordship afterward ordered the Father's House to be pulled down, and saw the Child there about a Month after; said, he saw the Child often at his Grandfather's *Landy's* House, before he came to *Dunmeau*—and never heard that *Lady Altham* had a Child in the Country—that he never saw the Child at *Dunmeau* during the Time *Lady Altham* was there till after she left the House; said, the Boy was about three or four Years old when he was brought to *Dunmeau*; said, the House the Grandfather lived in was a small Cabin with a Stone Chimney, that he often went by the Cabin to *Dunmeau*, and that there was no Alterations made in the Cabbins, and saw no Child there but all in Raggs; but that after Lord *Altham* took home the Child, his Lordship sent to *Rofs* for a Taylor and bought Cloaths for it! Says, a Coach might drive or go that Way, but that there was no Road; that there was no Fire-place in the Room, Glass Window or Bed, but Straw and Dung in the Room and not White-washed, knew *Joan Laffan* very well from her Infancy, was Landry-maid at *Dunmeau* whilst Lord and *Lady Altham* was there, and when his Lordship left it, she and *Taylor* were left there; never saw any Child in her Care during the Time *Lady Altham* was there, but saw the Child there once after Lord *Altham* left it,

it, and believ'd *Joan Laffan* might take some Care of that Child ; said, that after *Lady Altham* left the House he went to speak to *Joan Laffan* in the Pantry, that *Lord Altham* saw him, and said, are you going to kiss my Maid ? that the Witness answered he was not.—Said, he believed *Joan Laffan* was not to be believ'd on her Oath.

Lord Chief Baron. *Joan Laffan* has given a good Character of this Witness on her Examination.

Court. Call *Joan Laffan*, she being called appeared, and was put on the Table with the other Witness *Elms*, and being asked if they knew one another, they severally answered they did.

Joan Laffan sworn again, and being examined, said, that she knew Mr. *Elms* since she knows any Body, and is the same Person that she mention'd on her former Examination ; said, she never saw him but once at *Dunmeau* in the low Parlour, which was after *Lady Altham* left the House, and that she had the Care of Master *James Annesley* at the House half a Year before her Ladyship left it.

Elms examined, said, he believed the Child was never there whilst *Lady Altham* was at *Dunmeau* ; or that she ever saw it.

Laffan examined, swore the Child was there for the half Year, and described the Cloaths it wore during that Time.

Elms said, he never saw such——and that he several Times saw and spoke to the said *Joan Laffan* at the House, and said she was Laundry Maid ; *Laffan* contradicted him, and said she was House Maid, and said, there was a Room made handsomely up at old *Landy's* for the Child for *Joan* to nurse him ;—as in her original Examination.

Elms examined, said, he never saw any such Room as *Joan Laffan* describes it to be unless it was under Ground.

Joan Laffan examined, said, she lived at *Dunmeau* about a Year before Mr. *Unack* went there to live, and that Mr. *Taylor*, *Sutton* and herself lived in the House, and Captain *Aaron Lambert* was sick there for about a Fortnight or three Weeks ; said, that *Sutton* was Doctor in the Family, and was a whole Year at the House before they left it: that he was an *Englishman* and gouty ;—and then described the Road made to the Nurse's House.

Elms

Elms examined, said, he believed that Road was made as *Laffan* described, and that they could go to Captain *Giffard's* that Way, but that the Road was made no further than the Cabin.

Joan Laffan examined, said, a thousand People knew that Lady *Altham* had a Son.

Elms examined contradicted her, and said, he never heard her Ladyship had one, and that Mrs. *Giffard* visited at Lord *Altham's*.

Joan Laffan—My Lords, the Witness Mr. *Elms* had been pleased to call my Character in Question, with your Leave, my Lords, I desire to know from him, and in the Face of the Court, in what Particulars I am not to be believed, or in what I have defrauded any Person.

Court. Mr. *Elms*, the Witness *Joan Laffan* has now called on you for a Character, what have you to say against her?

Elms, My Lords, all I have to say is, that Mr. *Taylor* the Witness, *Joan Laffan* and her Brother, was charged with stealing some of Lord *Altham's* Goods after his Lordship had left *Dunmeau*, and that the Witness *Joan* had a Child by *Taylor*; that he was High Constable, and went to search for the Goods said to be stolen at her Brother's House, that there was a Feather Bed, some Bottles, and a Pair of Shoe-Buckles, said, he found such Goods there, but can't say they were the Goods of Lord *Altham*, having never seen them before, nor did he see the Goods in the actual Possession of *Joan Laffan*, and knew no other Thing against her.

Joan Laffan, My Lords, as to the Feather-Bed, it was my own, but there being some old Feathers in the House, when Lord *Altham* left it, he gave them to me, and I mixed them with the others in the Bed; and as to the Bottles or Buckles, I knew nothing of them, no-body cou'd prove or say any thing against us but what was honest.

Court. *Joan Laffan*, You may withdraw,—and she being withdrawn,—the Council for the Plaintiff proceeded to Cross-Examine the Witness *Elms*, who being examined (who were the Servants at the House when Lady *Altham* went to *Dunmeau*; said, there was *Taylor*, *Dwyer*, *Rolph*, a Coachman, and a
No. 7. O Smith;

Smith ; — Mrs *Heath* was Lady *Altham*'s Maid, and *Joan Landy* was Kitchen-maid ; said his Reason for taking Notice of *Joan Landy*, was, that she was with Child ; said, he was made High-Constable in the Year 1717, and was then High-Constable before, and went to *Dunmeau* half a Year after to Collect the Publick Money, but did not get it—knew none of the Servant-Maids but Mrs. *Heath* and the Kitchen-Maid ; said, that it was reported that the said *Juggy Landy* was great with Child by *Rolph* the Butler, and others, — did not know that *Joan Laffan* was there then — said, he dined and supped sometimes with Lord *Altham* before his Lady came into the Country, but never after, but dined with *Taylor* and the upper Servants, and did not converse with the lower Servants ; that he did not know when Lord *Altham* left *Dunmeau*, and that old *Landy* lived at the Lands of *Dunmeau* when Lady *Altham* came to that Country, but that he never was at *Landy*'s House before he went to see *Joan Landy* there ; that he supposed she was brought to Bed before he went to collect the Publick Money about a Year, and that he was acquainted with her about a Year before he was made High-Constable—did not know when Lady *Altham* came to the Country, but saw her Ladyship before *Juggy Landy* was brought to Bed, that he went to see her after she was brought to Bed, because he heard it was Lord *Altham*'s Child ; he asked her how she did, she said she was very sick, and told him that the Child was Lord *Altham*'s, that he afterwards saw the Child on his Grandmother's Back turning Sheep, that he had light-colour'd Hair, and she was brought to Bed in the Spring ; said, that his Reason for going so often to old *Landy*'s was, that he was cutting Turf near that Place ; said he never heard *Joan Landy*'s Child died of the Small-Pox till now, and that he never made an Affidavit about *Juggy Landy*'s Son ; said, Lord *Altham* lived more than half a Year at *Dunmeau* after his Lady left it, and believ'd in his Heart that it was soon after that he saw *Juggy Landy*'s Son there, that the Child was not dressed when he came there, but had a yellow Petticoat and a Blanket on, and the next Day he saw the Child in that Dress at *Dunmeau*, and that Lord *Altham* sent for a Taylor, and the Coat he made for the Child was a Sort of a yellow Silk ; said he never saw *Aaron Lambert* at *Dunmeau*, but heard he was there, that the Child walk'd publicly about the House and might be seen by every Body about it ; said, the High-Constables gather the Publick Money, but did not see Lady *Altham* there when he went there for that Purpose.

My

My Lords, We will now produce Mrs. *Giffard*, who is proved to be a Visitor of Lady *Altham's*, to shew that at the Time of this pretended Birth, that her Ladyship was at the Assizes at *Wexford*, in company with this Gentlewoman, and that she was not then with Child, or knew to be with Child, and immediately after went to *Dublin*.

Mrs. *Anne Giffard*, who being sworn and examined, said, she knew Lord and Lady *Altham* after they came to live at *Dunmeau* which was in the Christmas Hollidays in the Year 1713; ——— that the Families visited one another almost once a Fortnight, that, she never heard or saw that Lady *Altham* was ever pregnant, or with Child, or had a Child, that she lay in the House of *Dunmeau*, and knows that her Ladyship was not with Child, for that the Witness was with Child about 29 Years ago, and complained to her Ladyship that she was sick and with Child, at which her Ladyship said, she wished she had been with Child, ——— but never asked her Ladyship whether she was with Child, or not, nor did she ever see any Child at *Dunmeau*, during the Time that her Ladyship was there; said, she saw *Joan Landy* there, who was a Kitchenmaid, but heard she had a Child, never had any Discourse with her Ladyship about *Joan Landy*, but once in a Joak with his Lordship, the Witness said to him that it was reported that *Joan Landy* was with Child by his Lordship, at which he laugh'd.

Said, that one Mrs. *Hester* lived at *Dunmeau* with Lord *Altham* before her Ladyship came down there; ——— said, that Lord *Altham* in Spring went to the Assizes of *Wexford* to the Trial of *Masterfon*, *Doyle*, and *Walsh*, who were to be tried for *Wild Geese*, these *Wild Geese* were Persons who were supposed to raise Men for the Pretender, that Lady *Altham* went there along with him, and the Witness bore her Company in her Ladyship's Coach; that they were at *Wexford* for a Week, and came back to *Dunmeau*, where the Witness lay that Night—— that they lodged at the House of one *Sweeny* at *Wexford*, and that they lodged in opposite Rooms, but did not see her Ladyship in her Shift, or dress herself; that she never was at *Wexford* before or since, that Lady *Altham* and the Witness were in the Court-House at the Trial, and the Persons Names so tried were *Jack Walsh* of *Meney-Seedy*, Mr. *Masterfon* his Nephew, and one *Doyle*, a Clergyman of the Church of England, who died in Gaol.

Said, that no Person went with them in the Coach or Chariot, but that Lord *Altham* rode and Mrs. *Heath*, Lady *Altham's* Maid rode,

rode, and some other Servants, whose Names she did not know; that in a Fortnight after their Return from *Wexford* Lord and Lady *Altham* went to *Dublin*; that it was never known or heard of at *Dunmeau* that her Ladyship had a Son, nor did she hear of any Christnings or Rejoicings; that she never went to *Dunmeau* after Lady *Altham* left it, nor did she visit her Ladyship at *Ross*.

Cross Examined.

Said that she did not remember that they were in the Court-House but once, that *Cæsar Colclough* and Lord *Altham* went into the Court-House with them, and that Mr. *Colclough* sat by Lady *Altham* in the Court-House some Part of the Trial; did not know that Colonel *Loftus* was there, nor whether Mr. *Nutley*, Sir *Richard Cox*, Lord Chief Justice *Doyne*, or Lord Chief Baron *Rotchford* or any or either of them were Judges of the Assizes; that she visited Lady *Altham* in the Christmas Holidays 1713, and that she saw Mrs. *Brisco* and her Daughters there, who came down afterwards, and that they staid there about three Months, and that Mrs. *Brisco*'s Daughter was there, after her Mother left it.

Said, she remembred the Death of Queen *Anne*, and that she and all the Country were in Mourning, and that Lady *Altham* was in Mourning, and did not know any of the Names of the Gentlemen that were at the Assizes, but Mr. *Colclough*; that she went to bear Lady *Altham* company to *Wexford* for Diversion, and to visit Mr. *Sweeney*'s Family, that Lady *Altham* went to *Dublin* twice, but could not say whether it was before or after they were at the Assizes of *Wexford*.

Said, the Persons were tried for enlisting Men for the Pretender, but whether they were all tried together she could not tell, was not in Court when the Jury brought in their Verdict, having left the Court-House before Dinner — that she knew two of the Gentlemen that were tried and hath remembred them ever since, that she was not told by any Person of the above Fact to refresh her Memory, believed that Lord and Lady *Altham* lived at *Dunmeau* about three Years, that neither of her Sons has any Lease from the Defendant, and that she knew of no Road from her House to *Dunmeau* but one, and that over a Bridge, and that her Husband Mr. *Giffard* is dead.

Catherine Lambert, Wife of *Aaron Lambert*, who being sworn and examined said, that she is Wife to Mr. *Aaron Lambert*, and that they were married the first Day of *January* 1713, and that

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that Lord and Lady *Altham* lived at *Dunmeau*, before her Marriage, that she often visited them during the three Years they lived there, that the Witness lived at *Ross*, and went there the Beginning of *March* 1713, and visited at *Dunmeau* from *Ross* at the Invitation of Lord *Altham*, that she never knew or heard that Lady *Altham* had a Child, nor did she observe or ask her Ladyship about it; that the Witness's Father lived at *Waterford*, where she used to go in the Absence of her Husband to see her Father, but never paid a Visit to *Dunmeau* from *Waterford*; said she heard of one *Joan Laffan*, never saw any Child at *Dunmeau*, or play'd with any there, that she heard of *Joan Landy*, but did not know her, or her having a Bastard by Lord *Altham*; said there was a Separation between Lord and Lady *Altham*, and that her Ladyship went to live at *Ross*, but the Witness never visited her there, nor doth the Witness speak *French*.

And being cross examined, said, she went to *Ross* in 1713, and believed she staid there about three Months — that she was in *Waterford* at the Death of Queen *Anne* and at *Christmas* 1714, but could not tell where she was at *Michaelmas* 1715 — said, she heard of Mrs. *Brisco*, but never saw her at *Dunmeau*, but saw Mrs. *Giffard* there — said, she had Lodgings at *Ross* all the Time Lord and Lady *Altham* lived at *Dunmeau*, and after the Separation the Witness went to live at *Waterford* — said, when her Husband was at Quarters she would go to *Waterford* and see her Father and stay there sometimes a Month or six Weeks — that her Husband was sent for to go to *Dublin* on the Ploclaiming King *George* the First — that she knows *Matthias Reily* who is Agent to the Defendant and has known him several Years and sees him almost every Day, that she and her Husband parted about 16 Years, and that she has lodged at Mr. *Reily*'s these six Years, and diets there, and pays eighteen Pounds a Year for the same; and being asked whether there was not a Law-Suit between her and her Husband, and whether he had not put in an Answer to her Bill, and whether her Husband, Mr. *Aaron Lambert* was to be believed on his Oath.

Council for the Defendant. We object to this Question as being improper, for by the Rules of Law a Woman can't be a Witness for or against her Husband in any Case, except in a Matter of High Treason.

Council for the Plaintiff. My Lords we waive the Question.

The Parties then consented to an Adjournment till the next Morning at Nine o'Clock.



The Seventh Day of the TRYAL.

Friday November 18, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appear'd in the Jury Box, and being seated together.

Court. Gentlemen for the Defendant proceed with your Evidence.

Council for the Defendant. My Lords, we have proved, that Lady *Altham* was at the Assizes of *Wexford*, at the Trial of *Masterfon* and *Walsh*, but the Witness was not positive, whether the same was in Spring or Summer Assizes 1714; we will now produce a Witness, one Mr. *Ker* who was there, to shew the very Period of Time when the Trial was, and the Occasion of his being at that Assizes.

John Ker, Gent. sworn, and being examined, said, That in the Year 1714 Mr. *Forster* was appointed Lord Chief Justice, and in the same Year his Lordship appointed the Witness his Clerk, and that his Lordship went the *Leinster* Circuit in Spring 1714-5, and the Witness was with him at the *Wexford* Assizes, and remembers that *Masterfon* and *Walsh* were then tried for enlisting Men for the Pretender, and that the Assizes were in *April*, that several Gentlemen were in Court, but did not remember any Women of Fashion there.

The Witness took a Book out of his Pocket, from whence appear'd the Entries he made, when he went the Circuits, and the Time they went into each Town, and said, the Judges went into *Wexford* that Assizes on Saturday the 16th Day of

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April, and that the Gentlemens Trial was on the *Tuesday* following, and that Lord Chief Justice *Forster* sat on the Crown Side.

Cross Examined.

Says, that his Lordship went in Summer the *Munster* Circuit, and in Spring 1716 he went the North-East, and that Mr. Justice *Coote* was in Commission with Lord Chief Justice *Forster* at *Wexford*, but did not remember any Person to be tried for Murder, or any thing about a Clergyman.

Council for the Defendant. My Lords, we will now produce *Thomas Palliser* the Younger, whose Name has been mention'd on this Trial as the Cause of the Separation, who will give an Account of that whole Affair, and that he never heard of or saw any Child Lady *Altham* had, which has been sworn that he did by *Joan Laffan*.

Thomas Palisser, Esq; the Younger, who being sworn and examined, said, that he knew Lord and Lady *Altham*, and became first acquainted with them at *Dunmeau* when the Witness was a Schoolboy at *Ross*, and that his Father and Master then lived at the *Great Island*, three Miles from *Dunmeau*; said that Lord *Altham* was at *Dunmeau* before her Ladyship came there for about a Year, and that the Witness was there before and after her coming, but could not be positive whether Lady *Altham* visited his Mother.

Said, it was in the Year 1713, that he first became acquainted with her Ladyship at *Dunmeau*, that he was conversant in the Family, and that he spent more of his Time at *Dunmeau* than at *Ross*, during the Time that Lord and Lady *Altham* resided at *Dunmeau*; said he was no ways absent out of the Country during the whole Time, and never knew or heard that her Ladyship was with Child or had a Child; said, if she had been with Child, or had a Child, he must have known or heard of it; said, that no Man or Woman ever heard in the Country that Lady *Altham* ever had a Child.

Remember'd that he was with Lord *Altham*, *Taylor* and *Sutton* at *Buckstown*, that they went thither to drink Beer, about five Days before the Separation; that it was dark before they left the Town, that *Sutton*, *Taylor*, and his Lordship left the House before the Witness, that he soon followed them, and overtook his Lordship who was riding by himself and seem'd melancholy;

melancholy ; that *Sutton* and *Taylor* rode before him at some Distance ; that the Witness ask'd his Lordship how he did ? His Lordship answer'd, *Tom*, I am determin'd to part with my Lady, for my Lord *Anglesea* will never be reconcil'd to me while I keep her, and I have no Child by her, and therefore I will turn her away ; that on the *Sunday* Morning after some Dirt was thrown on him, for Lord *Altham* came to the Witness's Room, called him up, for that his Lordship was going to Church ; that the Witness said to his Lordship, my Lord, I was dreaming that you and I were fighting, and that your Lordship ran my Eye out ; ——— that he got up, went down Stairs, and was preparing to go with his Lordship, but his Lordship told him, *Tom*, you must stay at home with Lady *Altham*, and keep her Company this Day ; that his Lordship put on his Boots and rode away ; that soon after his Lordship returned, came up to his Lady's Room with a drawn Sword in his Hand, and made several Passes at him, and several of the Servants followed, came into the Room, and drew the Witness into the Dining-Room, knock'd him down, and believed one of the Servants cut him with a Knife, and a Bit of his Ear was cut off.

Here the Witness took off his Wig in Court, and it appear'd that a Bit of the Flesh-part of the Ear was cut off, and not the whole Ear, as was understood by the Evidence of *Joan Laffan*. And on his Oath said, that he never knew whether Lady *Altham* was Man or Woman but by her Apparel, and never saw any Child there, nor was there any Child there at that Time ; said, the usual Place of Breakfasting was in the Lady's Room, and always when she was in Bed ; that *Taylor* and the other Servants bore him a Spleen for complaining of them to Lord *Altham* for their Extravagancy, and believed the Servants Names were, *Anthony Dwyer*, his Gentleman, *Charles* the Butler, and *Mrs. Heath*, the Lady's Woman, and *Joan Laffan*, but never saw a Child, either in the Arms of Lady *Altham*, or of any of the Servants ; that *George Sutton* was the Surgeon, that his Lordship brought him and *Dwyer* over with him, and that *Sutton* was a gouty Man ; remembred that *Joan Laffan* washed the Rooms after they went to Bed, he having lain in the next Room near the Parlour ; that she is a Woman not to be believed on her Oath ; that *Elms* then had and now has a good Character in the Country ; that he had an Estate of fourscore Pounds a Year, but had sold some Part of it, to the Witness's Father, and now lives on the Remainder.

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Cross Examined.

Said, that he did not know that the then Earl of *Anglesea* and Lord *Altham* was at Variance, that it is his firm Belief that Lord *Altham* called him up that Morning as knowing that the Witness would go to the Lady's Room, as usual, it being customary for the Witness to breakfast there with her Ladyship, and his Lordship was certain to find him there; and that his Lordship took Occasion to use the Witness ill, to have a Pre-
tence for turning off his Lady.

Court. Is *Joan Laffan* in the Way? if she be, send for her, and let no Person speak to her, till she is brought into Court.

Joan Laffan was accordingly brought, and the Person who went for her sworn.

Court. Had you any Discourse with *Joan Laffan* on her coming into Court?

Officer. My Lords, I had no Discourse with her besides that she asked me, what she was sent for? I answered, I did not know, but that Mr. *Palliser* was examining. She replied, If I am to go upon the Table they will get nothing by me.

Joan Laffan was then ordered on the Table, and sworn, and being examined by the Court, said, that when Mr. *Palliser* came to the House, he behaved himself so abusive to the Servants that they all hated him, and would do nothing for him, but oblig'd him to wash his own Stockings in a Sauce-pan; for Mr. *Palliser* would throw Jalop into the Servants Drink, and tell her Ladyship Stories of the Servants; that on *Thursday* before the Separation, a Plot was laid between *Dwyer, Taylor, Sutton,* and Lord *Altham* to be revenged on Mr. *Palliser*; said, that on the *Saturday* Night before the Separation, as she was putting Lady *Altham* to Bed, his Lordship said to his Lady, My Dear, I must go out of Town To-morrow, and shall dine abroad: And said to the Witness, *Joan*, make me a Fire in my Dressing-room in the Morning; said, the next Morning his Lordship had for Breakfast Mulled White-wine, and that Mr. *Palliser* breakfasted with his Lordship, and had his Hat and Wig on at Breakfast; said, after Breakfast his Lordship went away, and Mr. *Palliser* went into Lady *Altham's* Room; and that then a Signal was made for his Lordship. Upon which

his Lordship came in, went up Stairs, with his Sword drawn, to his Lady's Room, Mr. *Palliser* was there, had on his Lordship's Cap and Night-gown, and was brought out of the Room with the Cap on; that the Huntsman went down for a Case-knife to slit Mr. *Palliser*'s Nose. When the Huntsman was going up Stairs the Witness called out to her Ladyship, that the Witness went into the next Room and saw the Flesh-Part of Mr. *Palliser*'s Ear that was cut off, and the Blood on the Floor;—and swore that Mr. *Palliser* did before then play with the Child.

Mr. *Palliser* was then examined; said, he never saw a Child at *Dunmeau-House*, nor in the Care of *Joan Laffan*.

Joan Laffan, said, he did see the Child (the Plaintiff) there, and that Mr. *Palliser* for his Life could not say any thing to hurt her Character, though she could justly impeach his.

Lord Chief Baron. This Woman does not in the least vary from her former Examination relative to this Affair.

Court. *Joan Laffan* withdraw.

And being withdrawn, the Plaintiff's Council then further cross examined Mr. *Palliser*.

Said, he believ'd that Lord *Altham*, when he made the Passes at him, had no Design to take away his Life, tho' he push'd like a Madman, and his Lordship might have run him through, or greatly wounded him, if he had not defended himself by putting by the Passes; that he never saw *Joan Laffan* attend Lady *Altham* at Breakfast, but her Woman Mrs. *Heath* always attended,—nor ever saw any Child in the Lady's Room with her.

Said, he never told her Ladyship of his Lordship's Intention of parting with her, tho' he had the Conversation with his Lordship on the *Thursday* before the Separation, and that his Intimacy with her Ladyship was three Years before; said, he remember'd when the late Lord *Anglesea* was ill of the Gout, when the Witness was at Lord *Altham*'s at *Dunmeau*; that Lord *Altham* would send frequently to know, how the Lord *Anglesea* was, and hop'd he would have died, and said he would give a Reward to the Person who first brought him Word of the Lord *Anglesea*'s Death.

Said, the Morning that Lord *Altham* called him up, he went down Stairs, but believes he did not Breakfast with his Lordship, but sat with him in a Room called *Sets-hale*, and that

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Sutton and *Taylor* were there, and believed the Breakfast was Mulled-wine, as the Woman said; and that his Lordship was accustomed, when he went a hunting, to call for a Cordial Dram; believ'd that the Cap he lay in the Night before was the Cap he had on when the Accident happen'd; and believ'd he had a Cap under his Hat at Breakfast, and never had any Silk Cap on belonging to his Lordship, for that he had no Cap of his own there, and that he used to lie in a Towel Cap; that *Joan Laffan* attended the Chambers, but did not know who took Care of his Linnen, nor did he know, whether Lord *Altham* wore a Night-gown, nor did he remember ever to have seen his Lordship in a Night-cap, for that his Lordship was an early Riser, and would dress himself, and believ'd that *Joan Laffan* was Laundry-maid; that his Lordship would not sit up late, unless neighbouring Gentlemen were with him, but that *Talor* and *Sutton* would; that he did often breakfast with Lady *Altham* when she was in Bed, and nothing on her but a Wrapper or Night-gown, and otherwise he believ'd her Ladyship was naked in Bed: Says, that he frequently breakfasted with Lady *Altham* when his Lordship was not there, and the Lady sitting up in her Bed; but the Lady's Maid would go backwards and forwards; and that his Lordship used to send him up to the Lady's Chamber when she was in Bed; said, he could not be particular what Cap he had on that Morning of the Accident, nor whether it was his Lordship's; said that one Miss *Briscoe* was there.

Said, the next Morning after the Accident, being *Monday*, he sent a Challenge to his Lordship, who not meeting him, the Witness potted his Lordship, and believed that Lord *Altham* went afterwards to live in the County of *Kildare*, but did not know whether it was before the Year 1717, believed that his Lordship was not in the Room where he was knocked down, but in the Lady's; and after that his Lordship had made several Passes at him, *Anthony Dwyer* took the Sword out of his Lordship's Hands; that the Servants were arm'd with Hangers and Clubs; said, he believed the Family of the *Pigots* might have lived at *Tentor*, but did not remember to have seen any of that Family at *Dunmeau*.

Said, that *Taylor* and *Sutton* used to dine at Lord and Lady *Altham*'s Table; said, the Reason his Lordship gave that the Witness should not go with him to Church that Day was, that they were to go a hunting the next Morning, and that the Witness's Horse, if he rode him that Day, would be unable to carry him; said, he did not take any Course in Law with Lord *Altham* for the Abuse he receiv'd, being unable to do

do the same, and that his Father did not think proper to do it, therefore left it alone ; said, his particular Reason for going up to her Ladyship's Room that Morning, was, that her Ladyship had a Lap-dog which she was very fond of, and that he carried the Dog up to her Ladyship ; said, he was alone that Morning in the Lady's Bed-Chamber and she was in Bed, and that his Lordship had often seen him there before, when the Lady was in Bed, and had left the Witness there, and swore he had no Intent of Criminal Conversation with the Lady *Altham*.

Council for the Defendant. My Lords, we will now call *Thomas Rolph*, who has been proved to have been a Servant in the Family.

Thomas Rolph sworn, and being examined, said, that he knew Lord and Lady *Altham* in *England*, two or three Years before Lord *Altham* came to *Ireland*, that he was Butler to his Lordship at *Dunmeau*, in the Year 1713, when Lady *Altham* came there ; that he came to *Ireland* with his Lordship the latter End of the Year 1715 ; said he was in his Lordship's Service at *Dunmeau* for one Year and a Half, whilst her Ladyship was there, waited on her Ladyship twice a Day, at Dinner and Supper, and never knew or saw that she was with Child, nor never saw a Child there ; said, that he never saw, heard or knew that her Ladyship was with Child, or had a Child, or any thing like it ; that he often heard them both say and wish they had a Child many and many a Time ; said, the Servants that were in the House in his Time were, *Thomas Quinn* the Coachman, one *Byrne* the Postilion, *Michael Forster* the Cook, one *Arthur*, a Gardiner, and never heard him call'd by any other Name ; one *Martin* a Smith, nor heard him called by any other Name, or Christian Name ; *Juggy Landy*, the Kitchen-maid under the Cook, little *Black Nell*, a Weeding-wench under her, *Mary Hales*, the Dairy-maid, one Mrs. *Setwright*, a House-keeper, sent down two or three Days before Lady *Altham* came, *Mary Waters*, Chamber-maid, and one *Betty Doyle*, a Laundry-maid, Mrs. *Heath*, the Lady's Maid ; that when *Mary Waters* went away, one *Thomas* came in her Place, and that *Mary Waters* used to carry up the Tea-kettle to the Lady's Bed-Chamber ; said, he was sure he could now remember *Betty Doyle*, if he could see her.

Council for the Plaintiff. My Lords, we have no such Witness.

The Witness being further examined, said, *Anthony Dwyer* was the Lord *Altham's* Gentleman, that his Lordship kept Hounds, and one *Smutty* was the Dog-boy, that he did not know *Joan Laffan*, for that he left his Lordship the latter End of the Year 1715, between *Michaelmas* and *Christmas*, and knows of no Servant that came in his Place, but that *Mary Waters* was turned away in his Time ; ——— said, that *Joan Landy*, the Kitchen-maid, was with Child, and went to her Father's House, a little Cot, above the Sheep-Walk, and there she was brought to Bed, about a Furlong and a half distant from *Dunmeau* House.

Said, that he went into *England* from Lord *Altham's*, and from thence went into the Horse-Guards for twenty Years ; that *Joan Landy* was brought to Bed in two or three Days after she left the House, that he went to see the Child, carried it to the Door to see if he knew who the Child was like, that he asked her who she father'd it upon ? She said the Lord *Altham*. The Witness replied, that was well done, for that if she laid it on any Person else, how would it be maintained ? said that he knew several others to have lain with her besides Lord *Altham* ; that she was brought to Bed on the Straw ; that he had seen the Child Fifty Times after, during the Time he liv'd at *Dunmeau* ; that after she was well, she would come to the Back-Yard with the Child, and he used to give her Viſtals, and that the Child ſtaid at the Cot till the Witness left the Country.

The Witness described the House, and drew the Figure of it, and the Infides thereof on Paper, which ſhew'd where *Juggy*, her Father, Mother and Brother lay ; that it was a Hut, a poor mean Place, but one Room, that they lay on Straw, that there was a Fireplace on the Left-hand, and a Chimney at one End of the House ; that there was no Partition, but ſome Sticks like Hurdles ſtuck in the Ground, behind which *Juggy* lay ; that there was no Windows, Glaſs, Chair, or Table therein ; that no Alteration was made therein, ——— was not white-waſhed ; that they had nothing but Straw and Cad-does, or Blankets, for Covering ; that the Child was dreſſed with a little Blanket about its Shoulders, and when it ran about it had the ſame Covering on, but that he never ſaw the Child in the Houſe of *Dunmeau* in his Life, nor was it ever ſuffer'd to come there, the Lady *Altham* having forbid that *Juggy Landy*, or any thing belonging to her, ſhould come about the Houſe, and believed the Reaſon was the Report of the Child's being the Lord *Altham's* ; that he knew of no other of the Servants that went to the Cabin but himſelf ; that there was a Coach-

Coach-road made that Way, but never knew that Lady *Altham* went to the Cabin ; that the Cabin was built a Year before the Child was born by one *Sheil* ; that he survey'd Part of the Coach-road, which was made a Year before the Cabin was built ; that the Road was made for to go to Church, ——— to Colonel *Palliser's*, ——— to Mrs. *Giffard's*, and the Mill ; that Mrs. *Giffard* used to visit Lord *Altham* before her Ladyship went to *Dunmeau* ; said, he never knew Mr. *M^cKircher*, that he came to his House in the Parish of *Marybone*, sent a couple of Fowls and some Lamb for Dinner about a Year last Summer ; that two Gentlemen were with him, one called Sir *Thomas*, another like an Officer, who spoke in the *Scotch* Accent.

Council for the Defendant. My Lords, this Mr. *M^cKircher* is Agent and Manager for the Lessor of the Plaintiff in this Cause. If the Plaintiff's Council will not admit it, we will prove it.

Council for the Plaintiff. We admit Mr. *M^cKircher* is now Agent and Manager for Mr. *Annesley*, the Lessor of the Plaintiff.

Court. Witness, give an Account of the Conversation you had with Mr. *M^cKircher*.

Witness said, that after Dinner and drinking a Bottle of Wine, Mr. *Kircher* ask'd him, if he ever lived with Lord *Altham* ? The Witness said he did. He then asked him, if Lady *Altham* had a Child ? The Witness said, she had not. Then he asked, who were Servants in the House ? The Witness named some of them. Mr. *Kircher* asked him, if he would accept of a Lieutenantcy ? The Witness replied, he would not, for that he could live better as he was than on the Pay of a Lieutenant ; that in about a Fortnight after Mr. *Kircher* came to him, and asked him again, if he'd accept of a Lieutenantcy ? The Witness then desir'd him to go about his Business, for that he would not be tamper'd with ; that Mr. *Kircher* desir'd further to speak to him. The Witness was angry, and said he would not ; that he was at his own Door, and desir'd Mr. *Kircher* to walk in, and speak to him before the Gentlemen then present, who were Mr. *John Ferns*, a Clerk in the Exchequer, and Mr. *James Prifely*, Master of the Tennis Court, and two others, *John Barker*, and *John Hood*, a Gardiner ; that he told them of the Conversation, and that they were at his House the first Time, and some others, and only them the second Time ;
that

that those Persons have little Gardens under him, that he let to them, but that he sold no Garden-Stuff.

Said, he went with Lord and Lady *Altham* to *Wexford* in the Spring of the Year, that Mrs. *Giffard* went there, Mrs. *Heath* and the Postillion, but did not remember, whether it was in 1714 or 1715; but said, it was at the Time some Persons were tried for being Pretender's Men; that his Lordship, he, and Mrs. *Heath* went on Horseback; said, about *Michaelmas* after he beat the Gardiner for not letting him carry Water: On which the Gardiner complained to Lord *Altham*, and his Lordship wrote a Letter in order to send the Witness to *Wexford* Goal; that my Lord and Lady was then in *Dublin*, and went thither in May 1715, and that he the said Witness left the Service on the Beating, but whether it was the May after they came from *Wexford* he did not remember; that they were both in *Dublin* at the Death of Queen *Anne*, and afterwards went to the Assizes of *Wexford*.

Said, that he went from *England* to *Ballyhack*, before Lord and Lady *Altham* returned from *Dublin*; that he knew of the Christening of *Joan Landy's* Child by one *Downs*, a Priest, at a Village call'd *Mash*, but that he was not there; that the Child was always call'd *James*, and not by any Sirname.

Cross Examined.

Said, that immediately after he left the Service for beating the Gardiner; that about *Michaelmas* 1715, he went into the Army; that his Reason for going to see the Child was, that he knew a Person that lay with the Mother; that he did not believe that the Child was Lord *Altham's*, but believed it was the present Earl of *Anglesea's*, but believed Lord *Altham* thought it to be his Child, but not from any Message sent to him; said, the Child was never reputed or called the Witness's; that the Coach-road made by the Cabin was the nearest and best Road to Mr. *Giffard's*, and Mr. *Palliser's*, and that Mr. *Giffard* most commonly came that Rode; said, there was a Bridge built going to *Ros*, over which was the Round-about Way to Colonel *Palliser's*.

Said, no Person came down with Lord and Lady *Altham* to *Dunmeau*, but Mrs. *Heath*; said, Mrs. *Briscoe* and her Daughter came down after, but as to the Time when he did not remember, and that they staid there a Month or six Weeks; that he did not know Mr. *Lutwich*, that Lady *Altham* went in a Coach to *Wexford*, drawn by six Bay Horses; that they staid in *Wexford* three or four Days; that the Witness lodg'd at the Post.

Post Office, but knew not where Lord and Lady *Altham* lodg'd, he not going to see them at that Time.

Could not tell what Cloaths his Lord and Lady wore there, but himself had dark Cloaths on; that he run away for beating the Gardiner, and had no Wages; that he now lives at *Marybone*, keeps a Victualing House and sells Wine; that *Ned Cormick* was the Running-Footman that went to *Wexford*; said, that my Lord's Gentleman was sick when they went to *Wexford*, and he went to attend in his Place; that he never enquir'd for or saw *Wexford-Wells* whilst he was there.

Said, Lady *Altham* was sick about a Week or a Fornight, whilst he was in the Service at *Dunmeau*, but that her Ladyship never kept her Room but about two or three Days; that he had no Business at *Wexford* but to carry Examinations from his Lordship to the Clerk of the Peace, but did not enquire where either of them liv'd, but one or other told him where they were; said he left his Wife and Family and came to *Ireland* with Lord *Altham* to get Twenty Pounds his Lordship owed him; that he never made any Agreement for his Wages, nor had he one Penny of the Twenty Pounds, nor of his Wages; that when he went to *Wexford* he rode a Bay Horse, Lord *Altham* a Brown *Englisb* Gelding, that they had a Black Mare, that the Brown Gelding was the coolest and best bred Horse; that he never went to *Dublin* with Lord *Altham*, nor did he ever demand from any Person the Twenty Pounds or his Wages, nor was he yet paid; that he spoke to Five Hundred People about the Pretender's Men at *Wexford*, but does not remember one of them, did not remember any Person named *Charles Meagher*, that lived at Lord *Altham's*; did not know one *Matthias Reily*, nor does he remember that he ever told the Earl of *Anglesea* about the Pretender's Men; that he knows Mr. *Jones* and Mr. *Burroughs*, and that he heard from forty People since he came to *Ireland* of the Pretender's Men being tried at *Wexford* in the Spring Assizes in 1715, but knows not the Names of them, nor whether *Jones* or *Burroughs* were there; that he left *Park-Gate* the 15th of *October* last, and landed here soon after; that he knew not at what House or Place, he heard the Forty People talk of the Pretender's Men; that he saw Mrs. *Giffard* since he landed, and saw her Yesterday in Court, but did not speak to her, nor did he see her any where else since he came to *Ireland*; that Forty People told him she was examined, but that he knew none of them, nor that he ever heard to what she was examined, or when or what about the Pretender's Men; said, he did not at any Time tell any Person that he was at *Wexford* Assizes in Spring 1715.

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nor did he serve the present Earl of *Anglesea* in any Station, nor had he any Protection from him; said, he could not tell whether he saw the Child walk about with the Blanket about his Shoulders before Lord and Lady *Altham* went to *Wexford* Assizes.

Owen Cavenagh, who being sworn and examined, said, the Earl of *Anglesea* the Defendant ow'd him thirteen Pounds Fifteen Shillings, and that the Money was paid him by Mr. *Derinsy*; that he knew the late Lord and Lady *Altham* very well; that the first Place he saw her Ladyship in was *Dublin*; that he lived with his Lordship, and went down with them to *Dunmeau*; that he afterwards went to *Dublin* with the Defendant (then Captain *Annesley*) where the Witness was sick of a Fever some time; — upon his Recovery he went to his Father's to gather Strength, and afterwards to Lord *Altham* who paid him his Wages, and prevail'd on the Witness to hire with him again. Which the Witness did, and staid there some Time, but the Witness having broke the Cook's Head, Lord *Altham* threatned to send the Witness to *Wexford* Gaol: On which the Witness went away without his Wages, went to his Father's, and did not go back again to his Lordship; that he lived with Lord and Lady *Altham* about a Year, but did not know where he was when Queen *Anne* died; that he knew after Lady *Altham* came over, his Lordship was reconciled to his Lady at Captain *Briscoe's*, and afterwards the Witness went down with his Lord and Lady to *Dunmeau*; said, he knew not, nor did he hear that Lady *Altham* was with Child, or ever had a Child at *Dunmeau*; that the Servants in the House in his Time were, *Taylor* the Steward who fed the Ducks, *Michael* the Cook whose Head he broke: *Thomas Rolph* was Butler, *Anthony Dwyer* his Page, Mrs. *Heath* the Lady's Maid; that he saw a Woman call'd *Joan Landy* in the Kitchen, a Chairwoman, that washes the Dishes, but knew not whether she had any Wages; that she had a big Belly, and was then supposed to be with Child; believed that Lady *Altham* heard by some Body that *Joan Landy* was with Child by her Lord, and thereupon was turned away, and that she used to hide herself when her Ladyship came down Stairs, and that the Servants made Game of her.

Said, he used to air the Horses in the Sheep-walk, where was a little House in which *Joan Landy* wash'd, and that he saw the Child there in *Joan's* Arms; that he used to go to the Cabin, which was built for the Herd; that there was but one Room in it, no Bed, but two Straw Beds, no Furniture, but a

Pot and some few Trenchers, and that there was no Window to his Remembrance, never heard that Lady *Altham* had a Child, but often heard Lord *Altham* wish for an Heir, because his Lordship and the Defendant was perpetually quarrelling; said that when his Lordship went to live at *Inchicore*, the Witnesses then lived in *Dublin*, and was married; that he went to see his Lordship at *Inchicore*, where he saw a Child, and after Dinner he spoke to his Lordship about the Child he saw there, and ask'd his Lordship, why he did not put the Boy to a Trade, the Child being his by *Juggy Landy*? His Lordship answered, that the Boy was ungovernable, and that therefore he would not trouble himself about him.

Cross Examined.

Said, he was married in *January 1719*, that Lord and Lady *Altham* were reconcil'd at Captain *Briscoe's*, where there was great Joy.

Council for the Defendant. My Lords, we will produce and examine *Anthony Dwyer*, who has likewise been proved by the Plaintiff's Witnesses to have lived in the Family of Lord *Altham*.

Anthony Dwyer, who being sworn and examied, said, that he was Servant to the late Lord *Altham* for five or six Years, that his Lordship lived at *Dunmeau* at the Time the Deponent went to live with him; that the Deponent was at *Dunmeau* both before and after the Lady *Altham* went there, and lived there after her Ladyship came to *Dunmeau* three Years, and was in his Lordship's Service at the Time of the Separation; that he came to *Dublin* with them, and sometimes was sent abroad by his Lordship on Business, was out a Fortnight, that he never knew or heard that Lady *Altham* was with Child either by my Lord or any other Person, till this late Uproar, that the Servants in the House were, *John Green*, Coachman, *Mrs. Heath*, Lady's Maid, *Juggy Landy*, Kitchenmaid under the Cook, and that she was there about a Month or two after Lady *Altham* went down to the Country, and was then with Child, that he saw the Child *Joan* had, within a Fortnight after it was born at her Father's House, who was a Shepherd in a small Hutt, built purposely for the Father, and the Child's Name was call'd *Jemmy Landy*; that a Bush was pulled in and out for the Door of the Cabbin, and *Joan* lay on Straw behind some Sticks, and the Child was in a very poor Habit; that *Joan* told the Deponent,

ment, that the Child was Lord *Altham's*, saw the Child afterwards about the Stables with the Grooms, whilst *Joan* used to go into the House to beg some Scraps of Meat, and that he went once to see the Child on purpose.

Said, he never saw Lady *Altham* handle any Child, or saw any Child in the House with her, and that *Joan Landy* dare not come near the House for Fear, by Reason of her fathering the Child on Lord *Altham*; that he lived with his Lordship after the Separation, came up with him to Parliament, and then parted from his Lordship, which was the first Parliament held after the Separation; that he knew *Joan Laffan* was Chambermaid in the House at *Dunmeau* for a Quarter of a Year, and never saw her have the Care of any Child as a Dry-nurse; said, that *Juggy Landy* was a strait black Girl, and to the best of his Remembrance is sure *Joan Loffan* lived at *Dunmeau* before the Separation about three Months.

Said, that Lord and Lady *Altham's* first going down to *Dunmeau* there were Bonfires, and at no other Time, except of burning of Bones on some Seasons of the Year, and never knew or saw any Christening at *Dunmeau*, nor never saw Mr. *Loyd* christen any Child there; said, the House wherein *Joan Landy* lived had no Glafs Windows or any other Ornament therein; that he went with Lord and Lady *Altham* to *Dublin*, and that *Rolph* went away before they returned; that he saw Mr. *Thomas Palliser* at *Dunmeau*, and said that he behav'd himself very well whilst he was there, and his being at *Dunmeau* was on the Invitation of Lord *Altham*; said, he never took any Oath with any of the Servants against Mr. *Palliser*, nor did he ever know him to wash his own Stockings, but that the better Sort of the Servants regarded him, that he had seen Lady *Altham* at Breakfast in her Room, and that her Ladyship's Maid attended her.

Cross Examined.

Said, that he was Gaoler of *Cork*, but is not now in that Station; that he is turned of Forty Years of Age, and between that and Fifty; believed that Lord *Altham* staid at *Dunmeau* about three Quarters of a Year after Lady *Altham* had left it, and during that Time he never saw any Child there, could not take upon himself to say whether *Joan Laffan* was, or was not in the House of *Dunmeau* after the Separation, but to the best of his Knowledge she was there at the Separation; said, after the Separation he went by *Joan Landy's* Father's House several Times, but did not go in, nor could he tell what became of her Child after the Separation; that to the best of his Knowledge

ledge her Ladyship went to *Dublin* twice before the Separation, with her Lord, but how long they staid there he could not tell, but it was in Parliament Time, and he waited on his Lordship at the Parliament House to robe him, but whether his Lordship staid in Town all the Parliament Time he could not tell, and believed they might have come to Town in the Summer, but if they did or not he could not remember.

Said, he was sick when Lord and Lady *Altham* went to *Wexford* Assizes; that he is acquainted with *Thomas Rolph*, that the Deponent came to *Dublin* last Sunday was Fortnight, and on the Tuesday following *Rolph* came to the Deponent's Lodging, and no body was with him; that the Deponent lodges at Mr. *Jones's* House, but that *Rolph* did not, said, that neither he or *Rolph* discoursed about the Deponent's being sick at *Dunmeau* when Lady *Altham* went to *Wexford*, could not remember after their Return from *Wexford* whether they spent their Summer at *Dunmeau*, or not; that he has very often drank Wine and Ale with *Rolph* since he came to Town, but had not seen him for twice seven Years before; said that *Rolph* and he called to Mind all their Merriments together, but said nothing of what they knew in this Cause (except to do the Earl Justice;) that they both agreed that Lady *Altham* had no Child at *Dunmeau*, said, that *Rolph* left Lord *Altham's* Service first, for the Deponent was sent down to turn him off for beating the Gardiner; said, he could not recollect Mrs. *Piggot* in that Country, or whether he saw her at *Dunmeau*, but saw Mrs. *Briscoe* and her Daughter there; said, he never saw Mrs. *Giffard* go to *Dunmeau* in a Coach; that the Cabin was up at the Time the Deponent was in the Country, and that *Juggy Landy's* Child was about three Years old when he saw him, at the Time of the Separation, but that he never saw him after.

Council for the Defendant. My Lords, we will now call Mrs. *Heath*, who is proved to be Lady *Altham's* own Maid, who will give your Lordship's and the Jury an Account that Lady *Altham* never had a Child, was with Child, miscarry'd or sick, was with her coming into the Kingdom, whilst in this Kingdom, at the Separation, and to the Day of her Death.

Mary Heath called, appeared and sworn to the *Voire dire*, and confessed she possessed herself of some of Lady *Altham's* Effects after her Death.

Council for the Plaintiff. My Lords, we object to this Witness being sworn in Chief, because she has possessed herself of some

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some of the Effects of Lady *Altham* to whom the Lessor of the Plaintiff Mr. *Annesley* is Administrator, and therefore if this Witness shall swear against the Plaintiff Mr. *Annesley*, it is to discharge herself of the Demand the Plaintiff Mr. *Annesley* has on her as Administrator to his Mother, to bring an Action against her for the same.

Court. Produce the Letters of Administration to make out your Objection, that the Court may give their Opinion on that Point.

Council for the Plaintiff. My Lords, we will ask Mrs. *Heath* a Question or two more on this Head, whether she was not serv'd with a Subpœna at the Suit of Mr. *James Annesley*, the Lessor of the Plaintiff, and how he was filed therein ?

Witness said, she was served with a Subpœna at the Suit of *James Annesley*, that she could not read it, nor does she know how he was filed therein.

Court. Where is your Letters of Administration ?

Council for the Plaintiff. My Lords, we have them not here.

Council for the Defendant. My Lords, we pray that the Witnesses may be now sworn in Chief.

Court. Swear the Witnesses.

Then *Mary Heath* was sworn and examined ; said, she came over into this Kingdom with Lady *Altham* as her Woman, and in *October* 1713, became acquainted with Lord *Altham*, when he and his Lady were reconciled, and lived with her Ladyship from that Time to the Day of her Death, which, to the best of her Recollection was in the Month of *October* 1729, and during that Time was never out of her Ladyship's Service, or even one Week from her all that Time ; that she went to *Dunmeau* with her Ladyship the *Christmas-Eve* in the same Year they came over, and staid there till *May* or *June* following, and that Lord and Lady *Altham* lived together from that Time to the Month of *February* 1716-17 before they parted ; said, that Lady *Altham* never had a Child or was with Child, during the whole Time the Witness lived with her, that she always put her Ladyship to Bed and took her up, except for one Week that she was absent. Was always with her Ladyship at *Dunmeau*

meau, and went with her the Day of Separation in a four Wheel Chair and a Pair of Horses, to Captain *Butler's* to *Ross*, which happen'd upon a *Sunday*, and that they lived at *Ross* about four Years, and that Lord and Lady *Altham* never came or met together afterwards; that the Servants when she went first to *Dunmeau* were, *Taylor* the Steward, *Rolph* the Butler, *Setwright* the House-keeper, *Michael* the Cook, *Juggy Landy* the Kitchen-Wench, under the Cook.

Said, when she went there she saw the Kitchen-Wench with Child, that the Witness said to the House-keeper, what, you have a Maid with Child? That the House-keeper-said, yea, and that she was with Child by Lord *Altham*, his Brother, several others, and the Dog-boy; and soon after *Juggy Landy* was turned away, and brought to Bed at her Father's House; that when the Witness heard of it, she desired the Coachman's Wife to go to *Juggy*, and bring the Child to a Gate, that she might see it; and accordingly *Juggy* brought the Child there, but she did not discern any Dress on it but a clean Neck-cloth, which the Witness gave *Juggy* before, and the Child was in a clean Dress; and her Reason for desiring to see the Child was, to see who it was like, and also her Reason for ordering the Child to be brought to the Gate, and not to the House, was, that his Lordship should not see it.

Said, that no Child was born, or christened at *Dunmeau* House during the Time she was there, nor had Lady *Altham* ever any Child to her Knowledge; said that Lady *Altham* went up Stairs one Day at *Dunmeau* a crying, the Witness asked her Ladyship what was the Matter, her Ladyship made Answer and said, that Brute Mr. *Annesley* wished I should never have a Child, on which her Ladyship said, she wished she could have a Child if she was to die the next Moment after, and that Quarrel was some short Time after their going down to *Dunmeau*; on which Mr. *Annesley* left the House, and was not admitted to the Table after; that she was at *Wexford* Assizes with Lord and Lady *Altham*, that her Ladyship was in Court, for that her Ladyship said to the Witness, how well Mr. *Mafferson* had pleaded his own Cause; that the Assizes of *Wexford* was in the Spring, for that they came to *Dublin* the May after the Assizes, for they were in Town before King *George's* Birth-Day, and that Lord and Lady *Altham* and the Witness went to Mr. *Annesley's* Lodgings to see the Fire-Works; said, when they went to *Wexford*, that Lady *Altham* and Mrs. *Giffard* went in the Chariot, that his Lordship, the Witness, *Rolph*, and Miss *Giffard's* Sister, and several others rode; said, she knew the Reason of the Separation, that Lord *Altham* the

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Night before they parted, his Lordship said to his Lady that he would go abroad the next Day, her Ladyship said he should not, for she should be uneasy without him; that the next Morning the Witness wakned with a Noise; she got up, and his Lordship said to the Witness, that *Lady Altham* must go away, and that one *Welman* was with him; that her Ladyship said she would not go without her Cloaths and Things, and that she would write over to Lord *Haversham*, but he would not permit it; that the Chaise and two were prepared for her Ladyship and the Witness, that they went away to *Ross* to Mr. *Butler's* and there was no body at home, but the Servants, that Captain *Butler* came home the next Day; said, that no Child or any other Person took Leave of her Ladyship, nor never saw any Child with her at *Ross*; nor did she know one *Edward Lutwich*, a Shoe-maker there, nor any Shoe-maker her Ladyship had, nor of any Shoes she had made, nor never had any Shoes made for any Boy, nor white Damask Shoes made for her Ladyship; said that *Joan Laffan* lived at *Dunmeau* three or four Months before the Separation, and that her Business was to help the Laundry Maid to wash, that she did not Dry-nurse, nor had any Child to Dry-nurse there.

Said, that after her Lady left *Ross* they came to *Dublin*, and lodg'd at one *Cavenagh's* in *Stable-Lane* near *Mary's-Lane*, but how long they were there she could not remember, afterwards they went to lodge at Mr. *King's* the Apothecary in *Charles-Street*, but how long they were there she knew not, from thence they went to *Tash's-Square* in *Mountrath-Street* to Mr. *Mullen's*, and from thence they went to *England* in *September 1724*, where they staid till her Ladyship's Death; said, she went somewhere on the Key to look for Lodgings before they went to lodge at Mr. *King's*, but the Name of the Person to whom she went she knew not, but gave her a Pistole Earnest, and that afterwards on Application to the Person and informing her, that the Lodging was not fit for her Ladyship, the Person returned back the Pistole; that her Ladyship never saw that Woman to her Knowledge, or spoke to her Ladyship any thing about it; said, another Person went with the Witness to take the Lodgings; said, that no Boy or any other Person went to *Lady Altham* in *Stable-Lane*, and never knew or heard any Thing of the Boy, but said, she heard that Lord *Altham* took the Boy that *Joan Landy* had.

Said, that on the Death of Lord *Altham* the Witness receiv'd a Letter from Miss *Mac Mullen* from *Dublin*, dated the 18th of *November 1727*, giving an Account of the Death of his Lordship; that as soon as she opened the Letter she went up to
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Lady Altham, told her the Contents of the said Letter, gave the Letter to her *Ladyship*; that her *Ladyship* read it, and made no Reflection thereon, nor said nothing at all at the Account, nor had she any other Account of his Death but that Letter; that her *Ladyship* did not go in Mourning, she being then in Mourning for King *George I*; said, that *Lady Altham* told her both before and after the Death of his Lordship, that she was to have no Jointure as not having either Son or Daughter, and on that Account the Estate having gone to the late Earl of *Anglesea* she could have nothing; said that Lord *Altham* never sent her *Ladyship* any Support, but was supported during her Life by the Duke of *Buckingham*.

The Witness was then asked, by the Defendant's Council, whether she knew Mr. *Mac Kircher*, and whether she had any and what Discourse with him, and whether he applied to her at any Time, and when and upon what Account?

In Answer to which the Witness said, she knew Mr. *Mac Kircher*, that on the 13th of April 1742, he came to her House in *St. Andrew's Court, Holborn*, told her, he came to enquire of her, if she knew any Thing of Mr. *Annesley*, or of her living with *Lady Altham*? and thereupon shewed her a List of the Servant's Names, and her Name at the Top, and other Servants at the Bottom, that the Witness heard them read, some of whom she knew and some she did not know, and among the rest was the Name of *Joan Laffan*, on reading the said Name, Mr. *Mac Kircher* asked the Witness, if she knew her? The Witness said, yes. What can she say? said the Witness to *Mac Kircher*; that Mr. *Mac Kircher* answered, and said that *Joan Laffan* said, that old Parson *Loyd* christened *Lady Altham's* Child. At which the Witness said, it is strange if my Lady had a Child, that he was not registered in the Parish. No, said *Mac Kircher*, there is no Entry kept in that Country where he was born, and that if you had been dead, meaning the Witness, the Earl of *Anglesea* would loose his Title and Estate, there would be such bloody Swearing.

Council for the Plaintiff. My Lords, what the Witness is now giving an Account of, can be of no Evidence against the Lessor of the Plaintiff, it not appearing, that Mr. *Mac Kircher* had any Directions from Mr. *Annesley* to look out for Witnesses.

Lord Chief Baron. Gentlemen of the Jury, any Thing said by the Agent, without the Directions of the Employer, to his Detriment shall not turn to the Prejudice of the Client.

Council

Council for the Defendant. My Lords, we will ask the Witness one Question as to the Objection made by the Plaintiff's Council, which is, whether Mr. *Mac Kircher* had applied to the Witness to give Evidence in this Cause, or to be Witness for the Plaintiff?

Council for the Plaintiff. Ask the Question, and that Question being asked, the Witness said, that *Mac Kircher* made no Application to her, to be an Evidence in this Cause.

Lord Chief Baron. Gentlemen of the Jury, You are not to take any Notice of the Conversation between Mr. *Mac Kircher* and the Witness.

Council for the Defendant. Witness, did you know Mr. *Maurice Annesley*, or any of his Family?

Witness said, she did know him and his Daughters, and that Mrs. *Blake* was one of them.

Witness, did you know of any Miscarriage that Lady *Altham* had, or did you see at *Dunmeau* what they called a Miscarriage, or did you tell any body Lady *Altham* had miscarried.

The Witness said, she never heard, or saw any Miscarriage that Lady *Altham* had, nor did she tell any body that her Ladyship had miscarried, — said, she knew one *Catherine* who was married to Mr. *Cormick*, but never had any Conversation with her, nor did she tell *Alice Babe* that there was any good News, and that *Alice Babe* never visited Lady *Altham*, or put her Hand on her Ladyship's Belly, or that the said *Alice* went away from her Ladyship's Lodgings at *Dublin* in a Chair; — said, she never heard Lord *Altham* call his Lady *Moll Sheffield*, but called her *Moll*.

Said, she saw the Saucers that was indecent, that his Lordship was angry at them, and threw them into the Fire, but that Lady *Altham* was no way frightened thereat, nor sick or disordered, nor did she call up Mrs. *Brisco* that Night, or she her, nor *Betty Doyle*, that Lady *Altham* never liked *Sutton*, nor did the Witness know or hear that he was sent for to attend her Ladyship for any Disorder that her Ladyship had, nor had her Ladyship any Disorder that occasioned the Stay of *Sutton* at *Dunmeau* for a Fortnight; said, she never saw Mrs. *Shields* at *Dunmeau*, nor did the Witness send *Redmonds* for her, nor did she know

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Brooks, nor never called Mrs. *Brisco* up to Lady *Altham*, nor did she know of her Ladyship's being bled by *Brooks*, and that she did not remember any thing of the Name of *Denis Redmonds*: said, that Mr. *Palifer* was used ill the Day of the Separation; said, she never complained to Lord *Altham* of any ill Usage he gave his Lady, nor did she say to his Lordship if he did not leave off frightening his Lady, her Ladyship would never have a Child, and further said she never called Mrs. *Brisco* out of Bed any Time, in the Night or the Day whereon the Saucers were broke, nor could she tell or remember that *Sutton* was sent for; said, Lord *Altham* told the Witness first of the unhappy Accident between his Lady and Mr. *Palifer*; said, the Affair of the Saucers was whilst Mrs. *Brisco* was there; said she did not remember that she used to go into the Room at Dinner before the Company left the Room.

Cross Examined.

Said, that on the 4th of December 1713, Lord and Lady *Altham* were reconcil^d at Mr. *Brisco*'s, and did not lodge at Mrs. *Vice*'s but one Day after the Reconciliation, during the Time they were in *Dublin*, but went to *Dunmeau*, and arriv'd there at *Christmas-Eve*, and that they went to *Dublin* about St. *George's* Day following, that Mrs. *Brisco* went to *Dunmeau* before Queen *Anne* died, and that Lord and Lady *Altham* went to *Dublin* just before the Death of the Queen, and then lodg'd at Mrs. *Vice*'s for a Month or five Weeks, — went back to *Dunmeau* after the Death of the Queen, and staid there 'till towards *May* following; that in *May* 1715 they went to *Dublin* again, lodg'd at Mrs. *Vice*'s, and Lady *Altham* then staid in *Dublin* for a whole Year, and never lay out of *Dublin*, but that Lord *Altham* would now and then go out of Town, and that Mrs. *Charity Annesley* visited Lady *Altham* at Mrs. *Vice*'s, that Lord and Lady *Altham* had a Scuffle, and the Witness heard the Noise of a Chair in the Room, but did not hear her Ladyship scream, nor did she know any Person by the Name of *Lucas*, or called by that Name, nor ever heard Lord *Altham* call any Person by the Name of *Lucas*, that they were then in Bed, but neither of them got up, but upon another Scuffle his Lordship got out of Bed, was going to the Window to call for Mrs. *Lucas* but her Ladyship held him, and then he said he would send for Mrs. *Lucas* to know if her Ladyship was with Child before he would turn her out of Doors, and did not hear of any Miscarriage that Time,

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Said, she never had any Conversation with her Lady about taking the Lodgings or giving a Pistole Earnest, nor did she ever tell her any thing about it, and believed no Person could go up to her Lady without her Knowledge; said Mr. *Mullen* was with her when she went and took the Lodgings, but could not tell whether she or Mr. *Mullen* went to make the Excuse for not going home to the Lodgings, as the Doctor said the Air was not good for her Ladyship.

Said, that Mr. *Annesley's* Lodgings was at the Quay facing the Custom-House, — had a Dining-Room and Bed-Chamber, and going there turned on the right Hand over *Essex-Bridge*, but how far down the Quay she knew not, and the Lodgings was up one Pair of Stairs, and the Supper was set out in the Bed-Chamber; said, that Mrs. *Giffard's* Sister was a single Woman, and when they went to *Wexford* they lodg'd at Captain *Sweeny's*; that she knew of no particular Trial they went there on, but went to hear Trials, and that Lady *Altham* was then in Mourning for the Queen, and did not wear Silver-Silk, — knew not what Servants attended his Lordship at *Wexford*, nor who dressed him; and that the Discourse about *Joan Landy's* being with Child was the first Night the Witness went down to *Dunmeau*, and then said it was a Captain's Man Servant that got her with Child and the next Day it was said, my Lord *Altham's* and the Dog-Boy's; said, she never knew that Lady *Blessington* visited Lady *Altham*, but that Mrs. *Piggot* very often visited her Ladyship at *Ross*.

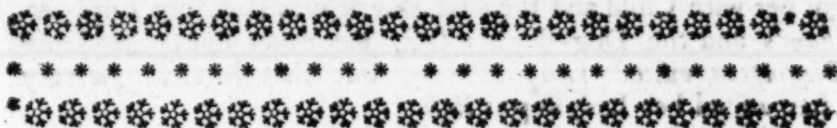
Said, the Day of the Separation before they got to *Ross* it was dark, and believed People went out to see them as they came into Town, and that they had something to eat at Captain *Butler's*; said, the next Day after the Quarrel with Captain *Annesley* and Lady *Altham* about his wishing that her Ladyship may never have a Child, that Lady *Altham* sent for him to come to Dinner, he refused it, and left *Dunmeau*, and never went there after; said, she saw one Mr. *Hussey* at her House, but never said to him that the Plaintiff Mr. *Annesley* was very much wronged, nor did she say to him that she knew more of it than any other Person; said it will be three Years next *January* since she heard first, that Mr. *Annesley* was with Admiral *Vernon*; and that it was the Dutcheß of *Buckingham's* Woman that told her of it; said, that Lady *Altham* was lame when she came to *Dublin*, and that her Lameness was occasion'd by a paralytick Disorder, and had lost the Use of her Limbs, but had not the Dead Palsy.

Said, when her Ladyship went to *London* she lost the Use of her Limbs and could not stand, but was wheeled about in a Chair;

Chair ; said that her Disorder began at *Ross* ; said there was a Report of Lady *Altham*'s having a Child before she went to live with her ; that her Ladyship enjoy'd her Understanding and all her Senses, and was able to manage all her own Affairs to the Day before she died.

Said, the Maintenance of one hundred Pounds a Year allowed Lady *Altham* was to cease on the Death of Lord *Altham*, that the Duke of *Buckingham* died before Lord *Altham*, and by his Will added Forty Pounds a Year to the Interest of Sixty Pounds a Year which Lady *Altham* had to make up 100 l. a Year, which Sum the Dutches of *Buckingham* gave Lady *Altham* during her Life ; that the Duke of *Buckingham* died before Lady *Altham* left *Ross* or went to *England* and that the Duke died before Lord *Altham* ; said she is not a Washer-woman but gets an honest Livelihood ; that her Daughter within these two Years had the Interest of seven hundred Pounds left her, and that they lived on that, and by Plain Work.

The Court adjourned to the next Morning at Nine of the Clock, pursuant to the Consent of the Parties.



The Eighth Day of the TRYAL.

Saturday, November 19, 1743.

THE Court having met according to Adjournment, and being sat, and the Jury called over, they severally appear'd in the Jury Box, and being seated together.

Court. Gentlemen of Council with the Earl of *Anglesea* proceed.

Council for the Defendant. My Lords, we will now produce Alderman *Robert King* at whose House Lady *Altham* lodg'd in *Dublin*,

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Dublin, who frequently conversed with her Ladyship, and to whom she never mention'd that she had a Child, tho' her Ladyship talked to him greatly of her Misfortunes.

Robert King, Alderman, who being sworn and examined, said, that he knew the late Lady *Altham*, and that she lodged at his House in the Year 1723 for about thirteen or fourteen Months, during which Time she dieted there, and a Maid-Servant named *Heath*, that her Ladyship almost every Day dined at his Table, and frequently talked to him about her Ladyship's Family and Misfortunes, and believed from the frequent Conversation she had with him that if her Ladyship had a Child, or a Son, she would have told him, and that her Ladyship never told him, nor did he ever hear her Ladyship say that she had a Son.

Cross Examined.

Said, that he never heard Lady *Altham* say any thing about her having, or not having a Child, that her Ladyship had a Disorder and that she could not stir being weak in her Limbs, that Mrs. *Heath* dined at Table, and behaved very discreet, and bore a good Character; that her Ladyship's Disorder was paralytick, but did not impair her Understanding, and never saw any Child come to her Ladyship.

Council for the Defendant. My Lords, we will now produce *Elizabeth Molloy*, who was a Servant in Lord *Altham's* House, who says, that Lady *Altham* had no Child, and of Lord *Altham's* Application to this Witness to dry-nurse *Juggy Landy's* Child, — and that she never heard in the Country that her Ladyship had a Child, nor that there were Christning or Rejoycing at *Dunmeau*, on her Ladyship's being brought to Bed of a Son, as is pretended on the Part of the Plaintiff.

Elizabeth Molloy, who being sworn and examined, said, her Maiden-Name was *Doyle*, that she lived with Lady *Altham* at *Dunmeau* and in *Dublin* about thirty Years ago, and to the best of her Knowledge her Ladyship came to *Dunmeau*, on one *Christmas-Eve*, the Witness being then at *Dunmeau* and served as a Landry Maid, that she lived there a Year and a Quarter, and was married in the Service, and afterwards removed with her Husband three Quarters of a Mile from *Dunmeau* where she lived for eleven Years; said, that Lord *Altham* applied to her to dry-nurse *Juggy Landy's* Son, that his Lordship came to her
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when he was a Hunting, and that it was after the Separation, and after Lady *Altham* had left *Dunmeau*; that his Lordship asked her, whether she would dry-nurse *Juggy Landy's* Child? The Witness said, she would not.

Said, she saw a Child call'd *Juggy Landy's* Child when a Year old, and saw her with Child, and that the said *Juggy* was brought to Bed in *May* after the Witness went to *Dunmeau*, and that it was near three Years after when his Lordship applied to her to dry-nurse it; that she could not call to mind when Lord and Lady *Altham* parted, that his Lordship said she must take the Child into her own House to dry-nurse it, but knew not how old the Child was when the Application was made to her.

Said, they dry-nurse Children till six Years old, but could not tell what *Christmas* Lady *Altham* went to *Dunmeau*; said, that whilst she lived at *Dunmeau* she never knew that Lady *Altham* was delivered of a Child, dead or alive, nor ever heard in the Country that her Ladyship had a Child, but heard her Ladyship wish she had a Son or Daughter, and never heard that any Child was christned at *Dunmeau*, nor of any Rejoicings there on the Birth of any Child.

Cross Examined.

Said, she never heard Lady *Altham* say, or wish, she had a Son or Daughter, but was told so, but knew not who told her, but that the Witness wished as much that her Ladyship had a Child, as the Witness did wish that she herself had a Child; could not tell what Time of the Year it was or when his Lordship applied to her to dry-nurse the Child, nor did she ever see the Child but once, and that she saw a Child ten Years old dry-nursed.

Said, she knew not *Matthias Reily*, but knows Mrs. *Welman* at *Rofs*, nor did she know *David Houlding*, or any of that Name, nor did she tell any Person of that Name that Lady *Altham* had a Child.

Said, that she saw Lady *Altham* in *Rofs* and in *Dublin* after she left *Dunmeau*; that she was first married to one *Byrne*, and now to *Molloy*; said, she would not then nurse for any Body, having no Occasion so to do, her Husband then held Land at fifteen or sixteen Pounds a Year's Rent.

Martin Kneese, Smith and Farrier, who being sworn and examined, said, he knows the Lands and House of *Dunmeau*, and lived there as Smith and Farrier to Lord *Altham* for a Year before

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before his Lady went down there, and continued his Smith during the Time the Lord and Lady lived together, except for about three Months that the Witness was sick, during which Time he lived at *Ross*, and being no Scholar he could not tell what Time of the Year he was sick, but to the best of his Knowledge Lady *Altham* was at *Dunmeau* above a Year before he fell sick, that after his Sicknefs he went back to *Dunmeau* and lived there half a Year before her Ladyship left the House; said, it was a Day or two before *Christmas* that her Ladyship came first to *Dunmeau*, and staid there going backwards and forwards for three Years, and from *Christmas* to *Candlemas*, that he never saw a Child there but the Child that *Juggy Landy* had, and saw him there in a Month or six Weeks after the Separation, and that the Child was taken into the House to live, that he lived with his Lordship three Years, and saw *Juggy Landy* with Child.

Said, the principal Servants in the House were, *Anthony Dwyer*, who attended his Lordship, *Mr. Taylor*, and that when *Dwyer* left his Lordship one *Kennedy* lived with his Lordship in the County of *Kildare*; said he could not be positive whether *Dwyer* or *Kennedy* was Lord *Altham's* Servant at the Time that the Child was taken into the House, but is sure it was one or the other; that he was told in the House that *Juggy Landy* was brought to Bed, and that he afterwards saw the Child in her Arms twenty Times about the House, and at his Forge at the Back of the House in the Yard when his Lordship was abroad, in order to beg Meat and Drink, and that he never knew or saw that *Juggy Landy* ever nursed or saw her nurse any Child but her own; it was a Dairy-Maid that took Care of *Juggy Landy's* Child after he was taken into the House, and they called her *Black Kate*; said, he saw the same Child at *Kinna*, in the County of *Kildare*, and afterwards amongst the Boys of the College, on *College-Green* in *Dublin*, that the Boys and he were in a bad Condition, and believed his Lordship then lived in *Proper-Lane*, and that he is the very same Boy he saw at *Kinna*, but that he did not know *Carrickduff*, and to the best of his Knowledge when he left *Dunmeau*, the Boy was four or five Years old, but had not seen him since he saw him in *Dublin*, and does not think that he should now know him if he should see him; said, that that Boy was reputed a Bastard of *Juggy Landy's* by Lord *Altham*, and was so reputed amongst the Servants; that he was present when his Lordship gave Directions to his Servants both at *Dunmeau* and *Kinna*, that if *Juggy Landy*, the Bastard's Mother, should come near the House to set the Dogs at her, and that his Lordship swore,
God

God damn the Bastard, he has too much of his Mother Juggy Landy's Blood in him to be good; that she was Kitchen Maid in the House at Dunmeau, and left it being big with Child, but could not tell whether she was turned away.

Said, he never knew or heard of a Christning being at the House, that Mrs. Heath was Lady Altham's Woman all that Time, and she left Dunmeau with her Lady, that he was in the House the Day of the Separation which was on a Sunday, and was present when Lord Altham called all the Servants up under Pretence of going to dine at one Minnit's, but that his Lordship did not go far, but soon returned; that he met his Lordship going up Stairs with a drawn Sword, at which the Witness cried out, what is the Matter? his Lordship said, never heed, come along, and that soon after he heard a Scream; said that he and the Coachman attended Lady Altham when her Ladyship and her Maid went away in a four Wheel Chair, and that no body came to take leave of her Ladyship, nor did he see any Child, but that the Child afterwards brought home was then at Nurse with Juggy Landy his Mother, but could not recollect when Juggy Landy's Bastard by Lord Altham was brought into the House; said that Joan Laffan lived in the House both before and after her Ladyship parted, and was in the Station of either Laundry Maid or Dairy Maid, and that Mr. Giffard, his Lady, William Elms and others used to visit Lord Altham, never knew or saw Joan Laffan take care of the Child, but that Black Kate took care of him, and that the Child lay with her, and that Joan Laffan did not take care of the Child.

Cross Examined.

Said, that he went to Kinna to live with Lord Altham, and has lived there ever since, could not tell how many Years it is, but believed it was 20 or 21 Years since; that his Lordship left it about a Year after and went to live at Ballyback, but could not recollect whether Lord Altham lived at Dunmeau a Year, or any other particular Time after the Separation; remember'd his Lordship went to Dublin after the Separation, and returned to Dunmeau again, and that the Child was taken into the House before ever his Lordship left the Country after the Separation, and the Child was quite bare of Cloaths when he came into the House, but some old Things were soon made up for him, and believed it was Silk, but knows not the Colour, that his Lordship lived a Year at Kinna before the Witness parted with him, and the Child was then about five Years old,

old, and believed if he was not under that Age he was not over; that the Boy was very meanly cloathed afterwards, during the Time the Witness was there, and being ask'd what he meant by the Word, *Meanly cloathed*, he answered, *Indifferently cloathed*; that the Boy went to School to one *Mahony* near the Road of *Kildare* and there was a Habit made for him of Slate-coloured Frize, and that his Cloaths at *Dunmeau* was a Silk Habit, made out of an old Night-Gound, but that he did not wear them at *Kinna*, and said that the Cloaths the Child wore at *Dunmeau* were better than them he wore at *Kinna*, and that the Frize Cloaths was made for him at *Kinna*, that the next Coat that was made for the Child was a Scarlet Coat made out of an old Coat of Lord *Altham's*, and saw the Child dressed in that Suit at *Kinna*, and by the same Token he besh——t his Breeches.

Said, that his Lordship gave Directions to all the Servants in the House to whip the Child when he did amiss, and that he heard his Lordship give the same Directions when his Mother *Juggy Landy* came there to see him; and that his Lordship said he would break any of the Servant's Heads that should let the Child come near *Juggy Landy*, for that the Child would never be good, he having so much of the Blood of his Mother *Juggy Landy* in him, and said the same openly in the Kitchen to all the Servants; that the Child would go up and down the House, and saw the Lord *Altham* and the Child in the Parlour together, but his Lordship was not fond of the Child; that he never saw the Child eat with his Lordship tho' he often saw his Lordship at Dinner and Supper, that he never attended his Lordship at Dinner or Supper, but he was as free with his Lordship as any of the Servants in the House: His Reason for seeing his Lordship at Dinner and Supper was, that he went sometimes for Money to buy Iron, and about other Things, and used to go to his Lordship at any Time, unless when his Lordship was in Company, but never saw the Child sit at Table, did not know when *Kennedy* came to live with Lord *Altham*, nor did he live with his Lordship when he saw the Child on *College Green*; that he knows Mr. *Misset* very well, and to his Knowledge has never seen him at *Kinna*, nor had he any Knowledge of him there; that the Witness would go Hunting with his Lordship, but did not remember to see Mr. *Misset* with his Lordship; that when he saw the Boy at *College-Green*, the Boy was about seven or eight Years of Age, and that he was about five Years old when he left *Kinna*, and that he should know the Boy amongst five Thousand, and that the Boy wore his own Hair; that he knew two *John Fitzgerald's*, and had some Discourse with long *John*

Fitzgerald, but never told the said *John Fitzgerald* that Mr. *Jones* gave the Witness Money or Cloaths, or told him that *Lady Altham* had a Child.

Said, a Man from the County of *Wexford* called at his Shop, and that he had some Discourse with that Man about this Affair, and bid the Person to tell Mr. *Derinsey*, that the Witness was living, and believed could do the Lord *Anglesea* Service; said, he heard above a Year ago, and reported in the whole County of *Kildare* that *Jemmy Annesley* was come over to sue the Earl of *Anglesea* for the Estate; said, the Person's Name to whom he told, that he could do Service to the Earl of *Anglesea*, was *Kneefe*; said, he saw the Child in Bed with Black *Kate*, that *Joan Laffan* took little Care of him, and never saw the Child in a Hat, Feather or Scarlet Cloaths at *Dunmeau*; that Lord *Altham* went backwards and forwards to *Ballyback* for twelve Months and better after he left *Dunmeau*, that after his Lordship left *Ballyback* he went to *Kinna*, but his Hounds and Horses were at *Ballyshannon*, at the *Blackamoore's Head*; said, the Servants at *Kinna* were, *Harry Archbold*, one *Price*, one *Rice*, the Coachman and *Martin Kneefe* the Smith; said, he was not a Year at *Kinna* before the Child came there, nor doth he know who brought him, nor whether it was *Juggy Landy*, but saw her come to see the Child, and that he saw *Joan Laffan* there and his Lordship scolded at her for stealing a Bed, but did not know whether she came with the Child there; that he did not know one *Francis Mulhall* a Taylor, but believed there was such a Man at *Killcullen-Bridge*, but did not know whether he saw that Taylor at *Kinna*, was not sure whether the Child's Cloaths were Camblet or not, but that he went to School to one *John Mahony's*, near the Road, a little Cabin near a Ditch Side, and that the Child dieted and lodged at Lord *Altham's* House, did not know that one *Connor* kept a School there.

Said, the Boy was a good clean skined Boy, with Flaxen Hair, but never saw him naked, that he did not know when Lord *Altham* lived in *Proper-Lane*, but was told his Lordship lived there when the Witness saw the Boy at *College-Green*; said that he heard his Lordship say to the Child several Times in a Passion, *God damn him, he has too much of his Mother's Blood*, *Juggy Landy*, in him, and order'd *Price* his Servant to whip him; that the Child was always treated amongst the Servant as a Bastard Child of Lord *Altham*, but how he was treated in his Lordship's Company, or by his Company, he did not know, nor how he was treated by or amongst the Gentlemen of the Country never knowing that any of them took Notice of the Child,

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Child, and as God was his Judge he never saw the Child introduced to his Knowledge to any of the Gentlemen in the Country! For that the Child eat with the Servants, never saw him ride out with his Lordship, nor was the Child able, during the Time the Witness lived with his Lordship, to ride; said what the Child did when the Servants were directed to beat him, was, that he would go to the Cook at the Fire, and throw down the Meat, Spit and all; and that thereupon his Lordship gave Directions to *Price* the Cook in the Kitchen to correct the Child.

Said, he never saw Mr. *Jeffery Paul* that lived at *Ballyshannon*, nor did he ever see him at *Kinna*, to his Knowledge, nor did he know that Lord *Altham* went to visit Mrs. *Annesley* at *Ballyshannon*, nor did he ever see the Boy in Company with any Gentlemen in that Country; that *Juggy Landy* lived at a Cabin at *Dunmeau* when the Child was sent to *Kinna*, and heard afterwards that the House was pulled down, said, he and *Will. Elms* were together when his Lordship gave Directions to set the Dogs at *Juggy Landy*, for coming near the House, and that he often heard his Lordship say, that he would rather give five hundred Pounds he had had that Child by an *Englishwoman*, that he knew not for what Reason his Lordship gave such Directions against *Juggy Landy*, and his Lordship called him *Femmy Landy*, but was called in the House amongst the Servants *Femmy Annesley*, as being the Bastard Son of Lord *Altham*, and that neither he or any of the Servants ever went to the School with the Boy.

And the Witness having withdrawn from off the Table, he was called back, and being asked by the Court how long he lived at *Kinna*? The Witness answered a Year and a Half.

Ann Coffee, when she came to the Book she kissed her Thumb, but afterwards the Oath being tendered her again she kiss'd the Book, and being examined, said, that she knew both Lord and Lady *Altham* when they lived at *Dunmeau*; that the Witness lived at a Place called *Clare*, before they went thither,—while they were there, and after they left it, and that during that Time she never once heard that her Ladyship had a Child there; that she never heard her Ladyship say any thing about it, and that she held Acquaintance with *Elizabeth Molloy* and *Anthony Dwyer*, and *Juggy Landy* the Kitchen-maid, who were in Lord *Altham*'s Service before her Ladyship came thither, but never any one of them said, that Lady *Altham* had a Child.

Said,

Said, she saw *Juggy Landy* dance on *St. George's Day*, and the Servants took Notice of her big Belly, and that on the *St. George's Day* after her Ladyship came into the Country, that Day being a particular Day of Merriment;—said, she saw *Juggy Landy's* Child the Summer after, at a Cabin where the Witness's Father was cutting Turff; that he saw *Juggy Landy* in the Cabin suckling the Child, and that it was commonly reported to be Lord *Altham's* Child; that he saw it again two or three Years after; that the Child went to School to *Patrick Furlong*, who lived half a Mile from the House at a Place call'd *Ferryrath*, and that the Child went from the House of *Dunmeau* to the said *Furlong's* after the Separation of Lord and Lady *Altham*; that she saw *Patrick Furlong* this Day; that she saw Lord *Altham* ride by the School, and ask at the Door, where was *Jemmy*? That *Furlong* answer'd, He is here. Whereupon his Lordship said, *I will horse-whip you, if you ever let the Child see that Whore his Mother Juggy Landy, for that he will be cross and want to go along with her*;—said, she was coming from the Bog that Day, and that she heard them Words expressed when she called at the School to see her Sister who then went to that School, but that she never saw the Child at *Dunmeau*.

Cross Examined.

Said, she never was at the School before, and her Sister was very young; that she is now about thirty Years old;—could not tell whether she ever saw the Child but once at the Breast, and that she did not see it after for near three Years; that she cannot nor will not for the World swear, that it is the same Child she saw suck *Juggy Landy*, that she saw at School, but was told it was; said, that she never heard that *Juggy Landy* had any Child but the one she had by Lord *Altham*, and never heard that that Child was dead; that she knows Father *Downs* and saw him this Day; that he is a Priest, but never said that he would give her Absolution for swearing in this Cause.

William Rowles, Farmer, who being sworn and examined, said, he knew the late Lord and Lady *Altham*, and was well acquainted with them, that they lived at *Dunmeau*, and that he lived in the Parish of *Dunmore*, a Mile from *Dunmeau*, and that he lived at the same Place at the Time of the Separation; said, he never heard that Lady *Altham* ever had a Child, nor was it ever reported in the Country that she had one; that he did

did not know how often he was at *Dunmeau*, but used to go a-hunting with his Lordship, and sometimes sold Corn, Pigs and Beef to Lord *Altham* at his House, and that his Lordship was Godfather to his Child; said, that having Discourse with *Juggy Landy* about her having a Child, she said it was Lord *Altham's*; that he told his Lordship of it, who said it was so; but said, that he never saw *Juggy Landy* with the Child; that his Lordship told him, before his Lady came into the Country, that he (his Lordship) never had a Child, nor that he never expected to have any by his Lady; that he never heard his Lordship say so after his Lady came to *Dunmeau*, and after the Separation *Juggy Landy's* Child was brought home to *Dunmeau*; said, that one Day his Lordship, the Witness, and the Child were in the Kitchen; that the Witness said to his Lordship, that *Juggy Landy* did not belie his Lordship, for that the Child was like his Lordship about the Eyes, and that his Lordship answered that he believed so too.

Cross Examined.

Said, that at the Time he spoke the above Words to his Lordship the Child was three or four Years old, but that he never heard the Child speak either *Irish* or *English*, and that to the best of his Knowledge his Lordship had very black Eyebrows, and grey Eyes; says, that the Child did not then favour his Lordship about the Eyes. His Reason for saying so, is, because they were then Face to Face; that the Child's Eyebrows were like his Lordship's, and the Child then had on a white Linnen Cap; that he never spoke to his Lordship before about the Child, nor did he know any thing of it till *Juggy Landy* told him, that he never saw the Child afterwards, nor did he know what became of him; that he never before talked to his Lordship about his Affairs, and said it was before Lady *Altham* came to *Dunmeau*; that *Juggy Landy* told him that the Child she was with Child of was Lord *Altham's*, and that he told my Lord so, and that she then lived in the House at *Dunmeau*.

Council for the Defendant. My Lords, we will now produce Mr. *Downs* the Priest, who christned the Child of *Joan Landy*, and who will give your Lordships and the Jury a full Account of this whole Affair, and inform the Court that Lady *Altham* never had a Child.

Michael

Michael Downs, who being sworn to the *Voire dire*, answer'd the several Questions, and being sworn in chief, and examined, said, that he knew both Lord and Lady *Altham* deceas'd, and knew them at *Dunmeau*; that his Lordship lived there a Year and a half before his Lady came thither; and that they lived together there three Years and some few Months, and that the Witness then and now lives within a Mile of *Dunmeau*, and used to go there sometimes to see his Lordship, once a Week or Fortnight, and used to dine with the Lord and Lady *Altham* at their Table; that he has been a Register'd Priest Forty-three Years, and that Lord and Lady *Altham* used to be at his House; said, that he never knew or heard that her Ladyship had a Child, and that the Common Report in the Country was, That Lady *Altham* never had a Child; that he is sure that her Ladyship never could have had a Child without his knowing of it, for that *Dunmeau* is Part of his Parish; said, his Lordship used to call on him to take a Drink with him, and that the Witness being free with his Lordship, he used to wish that his Lordship had a Child, and says, that he is sure that if Lady *Altham* had a Child, he believed his Lordship would have told him of it; and that he the Witness is now and was then Parish-Priest, so he must have heard if his Lordship had a Child, having an Account of all the Children born in his Parish; that about a Year and a half after, her Ladyship went to *Dunmeau*, his Lordship said to him, that he wished he had a Child.

Said, Mrs. *Heath* was in the House and *Juggy Landy*, a Kitchenmaid, saw *Juggy* there; and saw that she was with Child, and says, that she was soon after turn'd out of the House when Lady *Altham* came Home; that Lord *Altham* gave a Ball (or a Dancing) to his Domesticks and Neighbours, that he saw *Juggy Landy* dance there with Child, and that other Persons present, as well as the Witness, took Notice of her being with Child; that hereupon *Juggy Landy* was turned away; said, that about May 1714, he went to a Cabbins where *Juggy Landy* was, and she was then brought to Bed, and that afterwards her Mother came to him with the Child, and desir'd him to christen the Child at *David Barry's* House at *Nash*, which was a Fortnight after the Child was born; that his Lordship, some Time after, asked the Witness, if he had made a Christian of the Child? The Witness said, He had; that his Lordship mentioned only *Joan Landy's* Child who he, the Witness, had christened; that the Witness said, he had given it a Name: And that his Lordship said, It was very well. That the Witness said, he desir'd no Retrobution. At which his Lordship

Lordship laughed, and said, he should not be so; — that his Lordship asked him, what Name the Child was christened by? The Witness said, *James*; that it was the Grandmother that gave him that Name, and told the Witness that it was his Lordship that desir'd it should be christened *James Annesley*, believ'd that his Lordship ask'd him, what Name he called the Child? that the Witness answer'd, *James*, and that the Sponcers were the Grandfather and Grandmother, and that no others were then present at the Time of the Christening; said, that *Juggy Landy* was an unmarried Woman when she had the Child; that he never saw the Child from that Time till it was three or four Years old, and that it was after Lady *Altham* left *Dunmeau*, but that he never saw the Child there before her Ladyship left it; said, he saw the Child at *Dunmeau* after Lady *Altham* left it; that once, when he was visiting Lord *Altham*, he went with his Lordship into the Parlour where the Child was sitting; that his Lordship said to the Child, *You Son of a Whore, why don't you get up and make a Bow to him that made you a Christian?* That he saw the Child at *Furlong's* School; said, that he kept a Registry of legitimate Children, but not of illegitimate ones; that he did not Register *James Landy*, because he was a merry-begotten one, being gotten in Sin, though he made a Christian of him.

Said, that if that Child, or any other Child had been buried at that Church, he must and should have heard of it, and that he keeps a Registry of legitimate Children buried, but not of illegitimate; believed the Maiden Name of *Juggy Landy's* Mother was *Magrath*.

Cross Examined.

Said, he is sure he visited Lord and Lady *Altham* every two Months whilst they were in the Country, and believed that they might be there three Months together; that he did not visit at Lord *Altham's*, and if he had, perhaps, he might not have seen them.

Said, he could not tell, whether Lord and Lady *Altham* were at home; either at *Michaelmas* or *Midsummer* before the Separation; and said, that her Ladyship was in *Dublin* the first *Christmas* after the *Christmas-Day* that she came home to *Dunmeau*.

Said, that on the 22d Day of *April* 1715, Lord and Lady *Altham* went to the Assizes of *Wexford*, to hear the Trial of several Gentlemen who were capitally indicted for enlisting Men for the Service of the Pretender; that his Lordship saw the Witness there, and asked him, if he was in any Danger of Trouble?

blé? If he was, that his Lordship would be bound for him; that the next Day the Witness left *Wexford*, which was the Day that the Great Eclipse happened on, and that Lord and Lady *Altham* afterwards went to *Dublin*; that *Dunmeau* is the Estate of *Cæsar Colclough*, and that all the Parish belongs to him, and that it was let to *Aaron Lambert*.

Said, that *Joan Landy's* Mother told him, that Lord *Altham* would have the Child christen'd by the Parson of the Parish, and that afterwards she brought the Child to him to be christened, but that she did not then tell him, that the Lord *Altham* had directed her that the Child should be christen'd by him, but that she told him, that his Lordship had directed the Child to be call'd *James*. Upon which the Witness said, What, *James Annesley*!

Said, that he never asked Lord *Altham* about the Child before the Separation, and that the first Time he saw the Child after he christen'd him, was about the first of *July*, or the Beginning of *August*; and that the first Time he saw the Child at Lord *Altham's* House he had a green Coat, a little white Cloak and a Silver-lac'd Hat on, and believed that the Coat was Stuff, because it was Summer.

Said, he was sure that the Coat was not Silk, that the Coat was buttoned like a Frock; that the Child was sitting above Stairs in the Parlour, and no-body with him; that the Witness walk'd with his Lordship in the Garden, and on his Return found the Child in the same Place; that the Words his Lordship made use of to the Child was: *What! you Son of a Whore, why don't you get up and make a Bow to the Gentleman that made you a Christian*; that the Child got up, made a Sort of a Bow, but spoke not a Word, but mutter'd something which he did not understand: On which the Witness said, *God blefs him*; said that he did not know that any other Words were said to the Child, either in *Irish* or in *English*; said, he knew nothing of the Ball where *Juggy Landy* was dancing, but was told of it, and that the Ball was when Lady *Altham* was in the Country, and believed he was told that it was of *St. George's Day*; that he has kept no Registry these Twenty Years, and keeps no Registry of Protestant Children; that he never buried a Child of *Joan Landy's*, but heard that *Joan Landy* had a Child that died of the Small-Pox, and only heard of it a Year ago, and not before; that he never buried a Child either legitimate or illegitimate of *Joan Landy's*, but heard that a Child of her's was buried about twenty Years ago.

Said;

Said, that he did not know, nor did he take Notice of the Child that he saw, whether he was like Lord *Altham*, nor did he know what Hair he wore, but believed he was a black Child, that he heard Lord *Altham* with he had a Child, but whether it was before or after the Great Eclipse he knew not ; that he came from *Wexford* Assizes the Day before the Eclipse, and that his Place of Abode was distant from *Wexford* Eleven Miles,— that he was bound over, two or three Assizes before, to appear at that Assize, and that Colonel *Edwards* was then Sheriff ; that he appeared, and was bound over, the Beginning of that Assizes, to appear the next, by the Order of the Judge, and that he left the Town on the Parole of the Sheriff, but that he did not know whether it was in the Year 1714, but that he was not well acquainted with Lord *Altham* before the Assizes 1715.

Said, that he did not apply to *Cæsar Colclough*, or any other Gentleman of that County, to befriend him, he having no Need of them.

Said, that he is acquainted with one *Mackey*, a Priest in *Dublin*, but had no Conversation with him, or any other Priest, about the Witness's receiving Money from the Earl of *Anglesea* to be a Witness in this Cause, nor did he consult any Body about the Lawfulness of the same, or that he would receive Absolution for the same.

Said, that it is not usual for the People of his Church to bury Children without the Ceremony of the Dead, but poor People usually bury their Children under the Age of seven Years, without the Help of a Priest, in regard they cannot commit Sin, and that poor People bury their Children that die above that Age, when they can't conveniently have a Priest.

Said that he never made an Affidavit to be sent over to *England* relative to this Affair.

Mr. Attorney General. My Lords, give me Leave, on the Behalf of the Defendant, to examine this Witness to two or three Questions, to explain the Intention of this Man's Testimony, relative to the Death of *Joan Landy's* Child, who is said to have died of the Small-Pox.

Court. You may ask him what Questions you think proper.

Mr. Attorney General. Witness, do you know that *Juggy Landy* was ever married, and to whom, and when ? Or of any Children she had by her Husband, and their Names ? Or, if any

of them be living, or dead, where they now live, and what became of them ?

The Witness said, that, after he had christened *Juggy Landy's* Child, he married *Juggy* to one *Mac Cormick*, and that he afterwards christened several Children of that Marriage, and that he heard that the Child that died of the Small-Pox and was buried, was a Child that she had by *Mac Cormick* her Husband ; that he cristen'd *Mac Cormick's* Children, but that he did not know any of their Names, but that one *Banks* and several other People of Credit told him, that it was *Mac Cormick's* Child that died of the Small-Pox, and that the Marriage of *Juggy Landy* with *Mac Cormick* was two or three Years after the Separation of Lord and Lady *Altham*.

Council for the Defendant. My Lords, we have now done with this Witness, and beg Leave to call one *Patrick Furlong*, who was a Servant in Lord *Altham's* Family, who will give your Lordships and the Jury an Account after what Manner this Son of *Joan Landy's* was treated, that he was always look'd upon and reputed the Bastard Son of Lord *Altham*, and not otherwise ; and that he went to his School, this Witness keeping a School for some Time.

Court. Call him.

Patrick Furlong, who being sworn and examined, said, that he was employ'd as a Fowler to Lord *Altham* for five Years, that he had a Farm and kept a School near the Pound at *Dunmeau*, and that his Scholars were *Mary Grove*, *Nancy Grove*, and some Boys whose Names he did not remember, and had a Son of *Joan Landy's* call'd *Jemmy*, and that his Lordship sent that Boy to his School, when he was three Years and a half old, about two Months after the Separation, and the Boy staid with him at School five or six Months, that his Lordship called on him three or four Times as he was going a Hunting, and desir'd the Witness not to let *Juggy Landy*, the Child's Mother, see the Child, for if he did, his Lordship would be very angry with him, and that his Lordship gave him the like Charge one Evening coming from the School.

Said, he saw *Joan Landy* last February was twelve Months; that the Child's Cloaths was red, a black Fustian for a common Coat, and a little Habit of dark Colour, like Brown, but what it was made of he knew not, but that it was not Silk; that the Child wore a white Cap whilst he was at his School, and was

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was deemed Lord *Altham's* Child by *Joan Landy*; that one *Henderson*, a Quaker, applied to him to be a Witness for the Plaintiff in this Cause; that he saw the Child afterwards in *Ross*, when he was five or six Years old.

Cross Examinid.

Said, the Child spoke very smart in Irish, but spoke no English, and that he saw him two Years after he left his School at *Ross*, that he never taught the Child to read or write, and that he was sent to his School only to be a Child amongst the rest of the Children; said he did not know the Colour of Lord *Altham's* Eye-brows, but that his Lordship's was black like the Witness's, but that the Child's was not black, and that all the Children when they went first to his School spoke Irish; that the Child's Hair was brown, and that the Witness would bring the Child backwards and forwards, but sometimes the Child would walk and sometimes the Witness would carry him; that he did not know what became of the Child after he saw him at *Ross*.

Said, the Child did not get much Instruction from him at his School, nor was he improv'd in the English, for that he gave over School in the Winter about *September*, and began School again the *January* following; said he knew Lord *Altham's* Servants, that he knew *Rolph* who could not speak Irish, but that the rest of the Servants did.

Council for the Defendant. My Lords, the next Witness we shall call is *Arthur Herd*, another Servant in the Family, who will give an Account of the Plaintiff Mr. *Annesley* whom he is, what he was deemed and look'd upon in the Family, and the Treatment shewed to him by Lord *Altham*.

Court. Call your Witnesses.

Arthur Herd, being sworn to the *Voire dire*; said, he should neither gain or loose by the Event of the Cause, that he got two Guineas and a Pistole to bear his Charge from *Enniscorthy* to *Dublin*, and that he is a Whip-maker by Trade; and being sworn in Chief, said, he lived with late Lord *Altham* in *March* 1720 and 1721, when his Lordship had Tents in the Fields to hunt with; that the Witness was then an Apprentice, went to shave his Lordship one Morning; that his Lordship asked his Name; the Witness answered *Herd*, and thereupon his Lordship invited him to go live with his Lordship as he the Witness

was

was his Lordship's Country Man's Son? the Witness said, no, he was not, but am his Grand-Son; that the Manner of the Invitation was thus, his Lordship said to him, *By God, come to live with me, you shall not want a Piece of Money in your Pocket, a Horse to ride on, and a Whore*; that his Lordship's Place of Abode was then at *Carrickduff*, that thereupon the Witness left his Master and went to live with Lord *Altham* in *March 1721*; that when he went to *Carrickduff*, he saw a Child there call'd *James Annesley*, the natural Son of Lord *Altham* by *Juggy Landy*; that during the Time his Lordship lived at *Carrickduff* the Witness lived with him, and the Child was there all the while, and went to School to one *Straughan*, a Harper, who used to draw Pictures and taught *Jemmy Annesley* to spell; that Lord *Altham* was visited by several Gentlemen of that Country, and by Captain *Dunbarr*; that the Child's Cloaths were red, being made out of an old turned Coat of Lord *Altham's*; said he did not know *Charles Byrne*, Mr. *Carvenah*, or any of the Neighbours thereabouts, nor did he remember any of them to be there.

Said, the Servants at *Carrickduff* were *John Sweetman*, the Coachman, tho' his Lordship had no Coach, *Neil O Neil*, a Footman, married to *Catharine Caulfield*.

Said, that when his Lordship left *Carrickduff*, he went to live at *Cross-Lane*, in the City of *Dublin*, and that the Child was brought there, and was known by the Name of *Juggy Landy's* Son, and went to School over the Water for half a Year; that his Lordship went afterwards to live at *Praper-Lane*, and took a House there of Mr. *Simpson*, gave three Shillings and four Pence Earnest, which was afterwards spent at an Ale-house; that his Lordship, Miss *Gregory*, the Child and the Servants went there to live, and the Child was there in bad Cloaths.

Said, that his Lordship staid at *Praper-Lane*, near twelve Months, and from thence his Lordship went to live at *Inchicore*, near *Island-Bridge*; said, when the Boy lived in *Praper-Lane*, his Lordship beat the Boy very severely for pilfering, and said to the Boy, *You have the thieving Blood of the Landy's in you, who used to steal my Corn and Sheep*; that his Lordship finding he could get no good of him, sent the Boy to an orderly House, one Mrs. *Cooper's* to diet and lodge in *Big-Sheep-Street*, and knew nothing of the Boy since; that to the best of his Remembrance his Lordship went to live at *Inchicore*, in the Year 1724.

Said, he saw that Boy after on the 5th Day of *November 1742* early on *Monday Morning*; that one *Whelan* came to his Shop

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Shop at *Enniscorthy*, and told the Witness that he saw him very often at *Dunmeau*, and that if the Witness would go with him, the said *Whelan*, to the *Bear-Inn* and speak two Words, the Witness's Fortune would be made; that he promised to go there, and *Whelan* went before him; that when the Witness went to the Inn he called and ask'd for the Gentleman that wanted him; that the Witness was sent up Stairs to a little Room, when Mr. *Mac Kircher* asked him, if his Name was not *Herd*; and if he did not know Mr. *James Annesley*? The Witness answer'd, his Name was *Herd*, and that he did know Mr. *James Annesley*, and should know him if he met him in *London*; on which Mr. *Mac Kircher* call'd for Mr. *Annesley* who came up into the Dining-Room; that the Witness went thither, and Mr. *James Annesley* said to the Witness, you have often made me Fiddles and other pretty Things, and then Mr. *Annesley* kissed him; that Mr. *Mac Kircher* called for Pen and Ink, set down and began to write, and thereupon asked the Witness, if he knew whose Son Mr. *Annesley* was, and whether he was not like the Lady *Altham*? The Witness answer'd, he was not, but that he was *Joan Landy's* Son, Upon which *Mac Kircher* tore the Paper and threw it into the Fire.

Said, he was asked by one *O Neil* a Servant, who was present, whether he would go and live in another Place; that the Witness answer'd he would not, said that Mr. *Mac Kircher*, Captain *Levinston*, and the Plaintiff went into the little Room, but whether the Gentlemen heard or took Notice of what *O Neil* said to him, he did not know; said when he was Lord *Altham's* Service he shaved his Lordship and cut *Jemmy's* Hair; said he had some Discourse with his Lordship when he was going to sell the Reversion of his Estate, that he copied the State of the Case in the Presence of *Oferiferous Gamble*, and the Witness asked his Lordship to whom that Estate would go after his Lordship's Death, his Lordship made answer, it would go to Mr. *Charles Annesley*, but that his Lordship would get an *English* Act of Parliament to settle the same on his Lordship's Brother Captain *Annesley*.

Said, that his Lordship asked the Witness at *Carrickduff* if the Witness's Mother was a Protestant, the Witness answered, she was, and thereupon his Lordship said, he wou'd rather than five hundred Pounds that that Child's Mother was so too, said, that he had Discourse with the Plaintiff Mr. *Annesley*, and on such Discourse the Witness told him that he often brought Messages backwards and forwards to his Mother *Joan Landy*, and from her to him, and particularly brought him a Pair of Stockings; on which the Plaintiff Mr. *Annesley* said, it was usual in
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the Country for Children to call their Nurses Mother. On which the Witness said to Mr. *Annesley* it was unhappy for him, that the Witness knew his Mother so well, and thereupon Mr. *Kircher* desir'd the Witness to consider, if it was not customary in *Ireland* for Children to call their Nurses Mother, and for the Nurses to call them Children; and further Mr. *Kircher* added, it was strange that the Witness would not say, what all the other Servants said at Lord *Altham's* about Mr. *Annesley's* being his Son. At which the Witness said, the Plaintiff Mr. *Annesley* was not his Son, and that the Witness was better acquainted with and knew more of his Lordship's Affairs than any other of his Servants, and that *Joan Landy* gave him a Pair of Stockings and desired him to carry them to her Son *Jemmy*.

The Witness being desired to look about the Court, and point at the Gentlemen that were in the Room at the Time of the Discourse, the Witness looked about and said he saw none of them.

And the Witness being examined by the Plaintiff's Council, said that Captain *Levinston* was by at all the Conversation, but knew not whether *O Neil* was by; said his Lordship very often corrected the Plaintiff Mr. *Annesley* very severely at *Proper-Lane*, but did not correct him at *Carrickduff*, but said, he could not say the Plaintiff Mr. *Annesley* was guilty of the Things laid to his Charge, but that Mr. *Annesley* would own them; said the Correction which Mr. *Annesley* received in *Proper-Lane* was, for taking a Jockey's Belt, a Pair of Pidgeons, and some other trifling Things, and for not minding his Book; that his Lordship used to examine the Boy in his Book, but never heard his School-Master Mr. *Carty* complain of the Boy, tho' his Lordship told the Witness that he did.

Said that Miss *Gregory* never complained of the Boy to Lord *Altham*, said his Lordship did not tell the Witness that *Carty* the School-Master has corrected the Boy, and the Witness being asked how old he was, the Witness answered that by a Book of his Father's the Witness was born in 1703, and that he was fifteen Years old when he went to live with his Lordship.

Said, that Lord *Altham* used to say, that he kept his Son in a red Coat because his Mother wore a red Petticoat.

Said, that he often saw Lady *Altham* going to Church at *Ross*, whilst the Witness was an Apprentice at *Ross*, and saw her Ladyship after in *Stable-Lane*; said he knew none of the Gentlemen that used to visit Lord *Altham*, nor did he ever hear but once that his Lordship was at a Hurling, but that many Gentlemen might be at his Lordship's House without the Wit-
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ness's Knowledge, said some of the Family of the *Owens* were at *Carrickduff* and that he saw them there, as also one Mr. *Stone* who lived in the Yard, at *Carrickduff*.

Said, he knew Mr. *Annesley* wore a lac'd Hat, but never wore a Feather, nor had he a Silk Coat that he knew of; said, that he confessed to Captain *Levinston* that Mr. *Annesley* had a Horse and a Pair of Boots, and used to hunt with Lord *Altham*, but never said he went a Visiting with his Lordship; said that when any Gentlemen of Rank or Appearance came to dine with Lord *Altham* that the Boy did not dine with them, but when Farmers dined with his Lordship the Boy used to dine with them;—deny'd that he said to Captain *Levinston* that the Boy was given into the Witness's Care, or that he took Care of him, otherwise than by cutting off the Boy's Hair, and denied that the Boy was given into the Care of Mrs. *O Neil*, but acknowledged he told Captain *Levinston* that the Boy went to School to one *Straughan*, and to one *Paddy*, his Cousin of his Mother's Side by *Joan Landy*, and that when *Paddy* came to *Carrickduff* he used to call for the Boy, and the Boy called him Cousin *Paddy*, and *Paddy* on Examining him in his Book would say to the Boy, that he was Volume the Third, said that Miss *Gregory* and two others were with Lord *Altham* at *Carrickduff*.

And the Witness being asked by the Plaintiff's Council, whether he did not tell Captain *Levinston*, that Lord *Altham* had debauched Miss *Gregory*, the Council for the Defendant objected to that Question, for they said they intended to produce and examine Miss *Gregory* as a Witness for the Defendant on this Trial, and if that Witness was now on the Table and to be ask'd that Question, she could demur to it.

Council for the Plaintiff. My Lords, this is Part of our Case for the Plaintiff Mr. *Annesley*, on opening the same to your Lordships and the Jury, that it was by the Means of this Miss *Gregory* that the Plaintiff Mr. *Annesley* was abandon'd by his Father the Lord *Altham*, and all the Conversation as has been hitherto related by the Witness is only in part, if the Remainder be not confessed by the Witness, the Plaintiff has no Benefit of the Examination, and the rather, my Lords, by the Witness's own Confession; the Conversation was introduced by himself, and therefore we have a Right to examine him as to what he said, to the Question asked.

Court. Council for the Plaintiff, you can't ask the Question in the Words proposed.

Council

Council for the Plaintiff. My Lords, then we will ask the Witness this Question, whether he did not tell the Company that Miss Gregory had used the Plaintiff Mr. Annesley ill?

Court. That Question is proposed, the Witness said that he believed he told the Company that Miss Gregory had used the Plaintiff Mr. Annesley very ill as he heard and was told by the Maids, but on his Oath believed that Miss Gregory did not use the Plaintiff ill, and the Witness being asked whether he did not tell the Company that Miss Gregory had miscarried by Means of a Frog that was brought in by the Plaintiff?

Council for the Defendant. My Lords, we object to that Question as the same tends to impeach the Credit and Virtue of Miss Gregory.

Council for the Plaintiff. My Lords, we will ask the Witness this Question, whether he did not tell the Company that Lord Altham and Miss Gregory's Mother had a Falling-out.

The Witness being asked the Question——said he did tell the Company that Lord Altham and Miss Gregory's Mother had a Falling-out.

Council for the Plaintiff. Witness, did not you tell the Company that to reconcile the Matter that Lord Altham did marry Miss Gregory.

Council for the Defendant. My Lords, we object to that Question as being foreign to the Matter.

Court. The Question ought to be asked.

The Witness being asked the Question, said he told the Company, that Lord Altham and Miss Gregory were married, but did not remember or believe, that he told the Company that Miss Gregory was always call'd Lady Altham, but told them that Miss Gregory was call'd Lady Altham at Ross, and that it was at Ross that he heard she was call'd so; said, he never called her Lady Altham.

Said, that Lord Altham had so great a Regard for him, above any other of the Servants, that when the Witness was ill at Carrickduff, his Lordship brought him up some mulled Wine, and that then his Lordship said to the Witness, *I would give a hundred*

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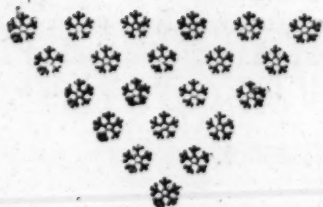
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Guineas, that Joan Landy, the Child's Mother was a Protestant. That he never talk'd to any of the Gentlemen in the Country, nor did he know what the Opinion of the School-boys were, or of the Housekeepers in *Proper-Lane*, relative to the Plaintiff Mr. *Annesley's* being the Natural Son of Lord *Albany*, but he believed they were all of the same Opinion with Lordship's Family, and that a Bricklayer, a Woman, and a Person that kept an Inn in *Proper-Lane* knew it, and that he call'd *Jemmy Landy*, but that he never spoke to them, or to one of them about it, and that his Lordship was more familiar with the Witness than any other of his Servants, he the Witness, being his Countryman's Grandson, — and that his Lordship, with his own Hands, cut off the Witness's Hair. He said, that at the Time his Lordship brought him up the mulled Wine, and the Witness not drinking it, he sent Master *Annesley* for a Horse-whip, and whipp'd the Witness till he drank the Wine, and that the Witness slept so well all that Night he did not awake—but that he heard that Miss *Gregory* was an Enemy to the Plaintiff.

Council for the Plaintiff. My Lords, we have no farther Questions to ask this Witness.

Council for the Defendant. My Lords, it is too late further to proceed in this Trial, therefore we are willing to consent to an Adjournment till *Monday Morning* next.

and accordingly the Court was adjourned to *Monday Morning* the Twenty-first of *November* at ten of the Clock.





The Ninth Day of the TRYAL.

Monday, November 21, 1743.

THE Court having met according to Adjournment, and being sat and the Jury called over, they severally appeared in the Jury Box, and being seated together.

Court. Council for the Defendant, proceed with your Evidence.

Council for the Defendant. My Lords, we will call to our Witnesses, to shew the Reputation the Plaintiff Mr. *James Annesley* went under when at School, as also Lord *Altham's* Declarations to his intimate Acquaintance of the said Mr. *Annesley* being his Natural Son, and the Doubts that remained in his Mind, whether he was his Natural Son or not, and these by Gentlemen of undoubted Credit. Then, my Lords, we will shew that Lady *Altham* never had a Child, her frequent Conversation with People relative to her Misfortune, and that she never even mentioned she had a Son, but on the contrary bewailed that Loss, during the whole Stay of her Ladyship in this Kingdom, and even to the Hour of her Death, and of Mr. *Annesley's* own Declaration at the Funeral of Lord *Altham*, that he declared he was only his Lordship's Son by *Joan Landy*.

Court. Call your Witnesses.

Henry Browne, who being sworn and examined; said, that he went to *Carty's* School in *Proper-Lane*, and remembers *Carty's* School-Fellow of his that went under the Repute of the Lord *Altham's* Bastard, and that most of the Persons that went to *Carty's* School were the Sons of mean People.

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Thomas Strong, who being sworn and examined ; said, that he went to School to *Daniel Carty*, and that there was one *Annesley* that went there, who was reputed the Bastard Son of Lord *Altham*, and the Witness saw the Boy some time after in *Ormond Market*, but could not recollect who he heard the Report at School from, tho' it was the general received Opinion in the School that he was the Bastard Son of the Lord *Altham*.

Thomas Barret, who being sworn and examined ; said, that he knew *James Landy* at *Ross* in the Year 1724, as near as he could recollect, and that the said *James Landy* was with the Witness's Brother for four Months as well as he could remember, and that afterwards he was with the Witness eight Months, and that he was reputed to be the Lord *Altham*'s Bastard by *Joan Landy* ; said, that he saw the said *James Landy* at *Ross* about a Year ago, and he knew him to be the same Person.

Cross Examined.

Said, that when the said *James Landy* was about five Years old he was in *Ross* with his Mother *Joan Landy* for about three Months, and that when the Boy was with him, he was about eleven Years of Age, and he saw the Boy at *Carrickduff* with the Lord *Altham* ; ——— said, that when he saw the Boy first at *Ross*, he was sometimes called *James Landy* and sometimes *Jemmy Landy*, and that he never saw the Boy before he saw him at *Ross*, and at both times the Boy was reputed to be the Bastard Son of the Lord *Altham* by *Joan Landy* ; said, that he did not know where the Boy spent his Time between the first time of the Boy's being at *Ross*, and the last Time, but that he saw him at *Ross* about a Year ago, and knew him to be the same Person ; said, that *Joan Landy* lived at *Ross* before she was married, and that the first Time he saw the Boy at *Ross*, he believed the Boy was about five Years old ; said, that *Joan Landy* lived at *Ross*, he believed the Boy was about five Years old ; said, that sometime before the Boy came to the Town of *Ross* he saw him at *Carrickduff*, and that the Boy was about eight or nine Years of Age ; said, that the first or the last Time he saw the Boy at *Ross* he did not observe that he had the Small Pox.

William Napper, who being sworn and examined ; said, he saw a Boy at *Ross* whom he was told was the Lord *Altham*'s Bastard

Bastard Son, and that the general Report in *Ross*, was that the Boy was the Bastard Son of Lord *Altham* by *Joan Landy*, and that his Lordship had no lawful Issue; said, that he was well acquainted with *Arthur* late Earl of *Anglesea*, and that his Lordship was suspicious of an *English* Heir, but never was apprehensive of Lord *Altham*'s having a Child in *Ireland*, for if the Witness had heard that his Lordship had a Son, the Witness would have told the Earl of *Anglesea* of it; said, that after the Death of the late Lord *Altham* the Witness let several Parts of the Town of *Ross*, under the late Earl of *Anglesea*, and no Objection was made by any Person to the taking of the Leases; said, that from the Time the late Lord *Altham* took to his Lady, the late Earl of *Anglesea* did never care for his Lordship, and believed that the Earl of *Anglesea* and the late Lord *Altham* were not reconciled after Lord *Altham*'s Separation from his Lady.

George Breban, Gent. who being sworn and examined, said, that he is an Attorney of this Court, and was informed that he was twenty-eight Years of Age last *April*; said, that the first Time he saw the Plaintiff *Mr. Annesley* was in the Town of *Ross*, one, two, or three Years before the Elections on the Death of the late King *George*, and he called him *Jemmy Altham*; that the Boy was in great Distress, and the Witness used to take him to his Father's Stables to lie there, and used out of Compassion to carry him Meat and Drink, and that the Boy lodged for some time before at *Barret's*, that the Boy was turned away for Misbehavior as he heard; said, that when he heard that *Mr. Annesley* had returned from the *West-Indies*, he said, he believed he should recollect his Face having a high Nose; said, he saw *Mr. Annesley* when he was at *Ross* about a Year ago, amongst a Parcel of Gentlemen, and recollected his Face, and doth verily believe him to be the same Person, and the oftner he sees him he is the stronger of that Mind; said, that he believed the Boy was elder than the Witness, being somewhat bigger.

Cross Examined.

Said, he could not say how long the Boy continued at *Ross*, but that it was too near the Election to be in the Year 1722 that he saw the Boy first; — said that the Boys when they saw *Joan Landy* they used to say, there is the Mother of *Jemmy Altham*; — said, when he first knew the Boy, the Witness went to *Piggot's School*; that the Witness went twice to that School, and believed it was the first Time he was at *Piggot's School* that

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he knew the Boy, and that the Witness continued at *Piggot's* School the first Time for two or three Years.

Council for the Defendant. My Lords, the next Witness we shall examine is *Mrs. Mac Mullen*, who will give your Lordships and the Jury a full and particular Account of Lady *Altham* from her coming into this Kingdom to her leaving the same, even to the Day of her Death, and that she never knew, heard, or saw any Child that her Ladyship had, and of the Boy's Declaration at the Funeral of *Arthur* late Lord *Altham*.

Court. Call your Witness.

Elizabeth Mac Mullen, who being sworn and examined, said, that she knew the late Lord and Lady *Altham*, and the first Time she knew her Ladyship was at *Dunmeau*, and that she saw her Ladyship there about three Quarters of a Year after her Ladyship went first to *Dunmeau*; that the Witness lived at *Ross* when Lady *Altham* went first to *Dunmeau*, and that after her Ladyship left *Dunmeau* and went to *Ross*, the Witness was very intimate with her, and first saw her Ladyship after she went to *Ross* at Captain *Butler's*, where she frequently visited her for two Years, twice a Week; said, that after her Ladyship left *Ross* and came to *Dublin*, her Ladyship went first to lodge at *Charles Cavenagh's*, and that the Witness visited her there once or twice a Week; that the Witness left *Ross* and came to live in *Dublin*, in the Year 1719, but did not know how long her Ladyship continued at *Ross* after the Witness left it; said, that when her Ladyship quitted *Cavenagh's* she went to live at Mr. *King's*, and that the Witness was there every Night with her Ladyship, who was then very ill; ——— said, that from *King's* the Lady went to live at the Witness's House and continued there some Time before her Ladyship went for *England*; said, that her Ladyship used to talk familiarly with the Witness about her Ladyship's Affairs, and that the Witness heard her Ladyship wish that she had a Child, but never heard that her Ladyship had a Child in *Ireland*, and the general Report was, that her Ladyship had not any; and said she never saw any Child at *Ross* or *Dunmeau*, and that a Night or two before her Ladyship left this Kingdom she desir'd the Witness to give her an Account when the late Lord *Altham* should die, that the Witness said it would be better to write to her Maid, her Ladyship being sickly; said, she knows of the Death of *Arthur* late Lord *Altham*, and that she was at his Funeral, and saw a Boy there crying, and said, O, my Father! Whereupon the

the Witness turned about to the Boy, and asked him who was his Mother? the Boy said *Joan Landy* was his Mother; said, the General Report at *Ross* was, that Lord *Altham* had a Bastard by *Joan Landy*, and never saw Lord or Lady *Altham* bring a Child in the Coach to her Father's House, and that her Father kept an Inn at *Ross*, and that Lord and Lady *Altham* used often to dine there; said, she knew of the Separation which was on a *Sunday*, and that Lady *Altham* went to *Ross* that Day, and when she came into Town it was Candle-light, and that her Ladyship dined at her Father's House after she went to *Ross*.

Cross Examined.

Said, that she did not draw the Ale at her Father's, nor attend the Chambers; that in *January 1719* she was married, and in two Months after she left *Ross* and went to *Dublin* to live in *Bride's-street*, where her Husband kept a Linnen-Draper's Shop in Partnership with Mr. *Ewing*; that the Witness lived in Lodgings when Lady *Altham* went to *Dublin* from *Ross*; that she went to meet her Ladyship to the Stage Coach, her Ladyship having desired the Witness to take Lodgings for her; said, that in three or four Days after the Separation the Witness went to visit her Ladyship in *Ross* was, and she appeared to the Witness to be disorder'd in her Limbs, but that she never enquired into the Cause of her Disorders, but believ'd it was owing to her Ladyship's great Grief; said, she did not know who her Ladyship's Shoemaker at *Ross* was, but one *Allen* was the best Shoemaker in the Town; said, that when her Ladyship desired her to write to her Ladyship about the Lord's Death, the Witness answered, that she would write to her or her Maid, and that she accordingly wrote a Letter to her Maid Mrs. *Heath*.

Council for the Defendant. My Lords, here is the Letter, and the same may be read if the Council for the Plaintiff think proper.

Council for the Plaintiff. We do not call for it.

Cross Examined.

Said, that she heard that it was rumoured that Lady *Altham* had a Child in *England* before she came for *Ireland*.

Council for the Plaintiff. My Lords, we will ask this Witness no further Questions.

Council

Council for the Defendant. We will call our other Witnesses to shew Lord *Altham's* Thoughts of this Boy, and of his Lordship's Declaration of never having any Child, and that he did not care what became of the *Anglesea* Estate after his Death, he having not any Child to succeed him therein.

Matthew Derinsey, Esq; who being sworn and examined said that he knew the late Lord *Altham* at *Carrickduff*, and from that time to the time of his Death, but never heard his Lordship mention any thing of his having a Child; said, he saw a Boy at a Hurling cloathed in Scarlet, who was said to be Lord *Altham's* Bastard, and that the general Report of the Country was that his Lordship had no Issue by his Wife, and that the Witness had dined with his Lordship at *Carrickduff*, but never saw a Boy at Dinner with him.

James Medlicott, Esq; who being sworn and examined, said, that he knew the late Lord *Altham* when his Lordship lived at *Kinna* in the County of *Kildare*; that his Lordship kept Hounds there, and the Witness used to hunt with him, and used to dine with his Lordship at his House and at Mr. *Annesley's* at *Ballyback*; said, that at one of them Places there was a Discourse concerning the Family Affairs, on which his Lordship said, he hoped he should one Day or other be Earl of *Anglesea*, but as he had no Son he did not know what would become of the Estate after his Death, and that he did not care if the Devil had it.

Cross Examined.

Said, that he had Acquaintance with Lord *Altham* till he went to *Kinna*; that he could not recollect who was in Company at the Time of the Discourse, and his Reason for remembering the particular Expression, was, that the last Part of it was so remarkable; said, that until he heard of the Dispute between the Plaintiff Mr. *Annesley*, and the Defendant the Earl of *Anglesea*, the Thing was out of his Head, but hearing that the Plaintiff set up as Lord *Altham's* Son, he recollected the Discourse.

William Becket, Esq; who being sworn and examined, said, that he knew *Arthur* late Lord *Altham* in *Essex-Street*, and at *Inchicore*; that there were several Quarrels between the Defendant the Earl of *Anglesea*, and the late Lord *Altham*; that the late

late Lord *Altham* said to the Witness, that he wished the Natural Son he had was legitimate, to cut out that Rascal his Brother, the Defendant in this Cause; said, it was always reported that the Lord *Altham* had a Natural Son, but no other Son; that he never saw Lord *Altham* at *Essex-Street*, but once, and afterwards at *Inchicore*, and that he saw his Lordship at the Coffee-house, and met him at the Taverns; said, he believed Lord *Altham*'s Lodgings in *Essex-Street* was at Mr. *Vice*'s, but that he could not tell the Distance of Time betwixt seeing him in *Essex-Street* and *Inchicore*.

Cross Examined.

Said, that he never saw Lord *Altham* at any of his Lodgings after he saw him in *Essex-Street*, 'till he saw his Lordship at *Inchicore*, and that he did not believe there was a Year between his going to *Essex-Street* and the Witness's going to *Inchicore*; said, that one *Cavenagh* was present at this Discourse, and the Witness's Son, and several others who were Strangers; that the Discourse happened before Supper, and was in his Lordship's Parlour, that the Witness danced there that Night, and one Miss *Gregory* was there, who was a Relation of the Lord *Altham*'s.

Wentworth Harmand, Esq; who being sworn and examined, said, that he knew the late Lord *Altham* in the Year 1714 or 1715 at *Kinna* in the County of *Kildare*, and had frequent discourse with his Lordship, who very often lamented the Want of a legitimate Child; and in this Discourse concerning this Boy, the Plaintiff Mr. *Annesley*, his Lordship said, he did not know whether the Boy was his own, his Brother's, or his Footman's, that the Witness upbraided his Lordship for not taking Care of the Boy, and his Lordship's Answer was as before.

Cross Examined.

Said that the Discourse aforesaid happened several Times at *Kinna*, and that the Witness never had any Conversation with Mr. *Medlicote* touching what Lord *Altham* said about his Bastard; that the Witness saw Lord *Altham* at *Inchicore*, and had the same Discourse with him at that Place, but whether the Discourse first happened when the Witness talked to his Lordship of his not taking Care of the Boy he could not tell.

Council

Council for the Defendant. My Lords, the next Witness we shall produce is *Christopher Stone*, to inform your Lordships and the Jury, what the Discourse was that happened between him and *Purcel* the Butcher, who was examined on the Behalf of the Plaintiff Mr. *Annesley*; what *Purcel* said was the Conversation between the Defendant, the Earl of *Anglesea* and *Purcel*, when the Defendant went to *Purcel's* House about the Boy.

Christopher Stone, Gent. sworn and examin'd, said, that he knows *John Purcel*, a Butcher, and that *Purcel's* Son is the Deponent's Tenant; that he had some Discourse with *Purcel* the Elder concerning the Defendant the Earl of *Anglesea's* Application to him about the Plaintiff, and that all that *Purcel* the Elder said to the Deponent, was, that when the Defendant went to the said *Purcel's* House, the Defendant asked *Purcel*, whether he would take the Boy Apprentice? That *Purcel* made Answer and said, he hoped the Boy was born to better Fortune.

Council for the Defendant. My Lords, we have but one other Witness to examine on the Behalf of the Defendant, who is *Hannah Shaw*, to shew unto your Lordships and the Jury the Conversation that happen'd between this Witness and *Catharine Mac Cormick*, who was examined for the Plaintiff in this Trial, and which the said *Catharine* on her Examination confessed she had some Discourse with this *Hannah Shaw*, and then shall rest the Evidence for the Defendant.

Court. Call the Witness.

Hannah Shaw, who being sworn and examined, said, that she knew *Catharine Mac Cormick*, that she prepared a Room or Parlour for the Witnesses; that some Time in *November* last the said *Catharine* told her that some Person was going about to get Evidence for the Plaintiff Mr. *Annesley*, and that the Person had applied to the Witness to know of her, whether she was not a Servant at Mrs. *Vice's*; that she told them she was, but desired them not to call her, for that what she could say was against them, for that she was sure that while she was at *Vice's* the Lady *Altham* was not with Child, and did not believe she ever had a Child.

Council for the Defendant. My Lords, we have done with our Evidence on the Part of the Defendant the Earl of *Anglesea*, and have given such Proofs to your Lordships and the Jury that

It appears from the Evidence there is not the least Foundation for this Trial, or that the Plaintiff Mr. *Annesley* in this Cause has laid any Evidence before the Court and the Jury, but that a Verdict must be found for the Defendant.

Mr. Serjeant *Marshal*, of Council with the Lessor of the Plaintiff — My Lords, in this Case since the Defendant has rested his Evidence here, and does not think proper further to proceed, nor to give any Account how Mr. *Annesley* was transported, nor of the Prosecution for the Murder, we of Council for Mr. *Annesley* must now beg Leave to give Evidence to your Lordships and the Jury, and to produce Witnesses whose Names have been mentioned in the Course of this Trial, and admitted and swore to by some of the Witnesses, and on whom the great Strefs is laid by the Defendant; and in order to that, my Lords, we will shew your Lordships and the Gentlemen of the Jury, that Lady *Altham* was not in *Wexford* in April 1715, nor was she in *Dublin* for a Year together, and also the Death of the Bastard Son of *Joan Landy*, and first we shall call *Cæsar Colclough*, Esq;

Court. Proceed.

Cæsar Colclough, Esq; who being sworn and examined, said, that he knew the late Lord *Altham* and knows Mr. *Giffard*; said, that he was at the Trial of *Masterfon* and *Walsh* in *Wexford* at the Spring Assizes 1715, and did not remember to have seen the Lady *Altham* there, but believed he should recollect if she was there; said he should have known the Lady *Altham* and Mrs. *Giffard*, being so much engaged about the Trial of *Masterfon* and *Walsh*; said, that Mr. *Edwards* was Sheriff in the Year 1714.

Cross Examined.

Said, there were no Ladies as he can recollect at the Trial, and that he had but little Acquaintance with Mrs. *Giffard*, did not know what Day of the Week the Trial was on, nor did he remember to have seen the Lord *Altham* then at *Wexford* Assizes.

Council for the Plaintiff. My Lords, the next Witness we shall produce and examine is Mr. *John Hussy*, relative to the Conversation he had with Mrs. *Heath*.

John

John Hussy, Gent. being sworn and examined, said, that he knows *Mrs. Heath*, and had Conversation with her touching the Plaintiff about two Years and a half ago; said, that a Person came to his House, and asked him what Conversation he had with *Mrs. Heath*? The Deponent answered, it is so long ago that he had almost forgot, but said that *Mrs. Heath* in that Conversation said, that no Body knew the Plaintiff's Affairs so well as she did, for that she had lived with his Mother the Lady *Albham*, and that the Dutchess of *Buckingham* had sent for her three Times, and that she had Discourse with her about the Plaintiff *Mr. Annesley*; said, that he is positive *Mrs. Heath* said the Lady his Mother, and further said, that the young Man is much injur'd, but did not remember that *Mrs. Heath* said she was to get any thing for coming into *Ireland*; that the Deponent came last into this Kingdom in *July* last, and lives at *Painstown*, in the County of *Kildare*, and hath been acquainted with *Mrs. Heath* for five Years past; said, that he spoke of the aforesaid Conversation at his Sister's in *Smithfield*, and told some Body thereof, whose Name he did not remember, in order that the same should be told to the Plaintiff *Mr. Annesley's* Agent; said, that he saw *Mr. Mac Kircher* some time ago, at the *Globe* Coffee-House, but never spoke to him about this Matter till last *Friday*.

Cross Examined.

Said, he hath an Employment as one of the Stewards of his Majesty's Yachts, and used to attend his Majesty to *Hannover*, and that he sold Cambricks and Linnen in *London*; that he believed he had the aforesaid Conversation in the Evening at *Mrs. Heath's* Lodgings, and went with *Mrs. Simpson* there to drink Tea, and that he saw *Mrs. Heath* at her House the last *July*, and gave her the Letters of *Mr. Simpson's*; that then *Mrs. Heath* told him, that she was to come to *Ireland* as a Witness for the Defendant the Earl of *Anglesea*, and she then differed much from herself, but had no Discourse with her touching the Evidence she was to give; said, he hath no Reason to think that she differed much but her telling him that she was to be a Witness, and on her seeming very strenuous the first Time for the Plaintiff *Mr. Annesley*, and the last Time for the Defendant the Earl of *Anglesea*; said, that *Mrs. Heath* did not tell him any thing that passed at the Dutchess of *Buckingham's*; says he is a Papist, and that he had not any Conversation with any Body touching the Evidence *Mrs. Heath* gave on this Trial, but heard

heard from some Body, whom he knows not, that Mrs. *Heath* had been asked about the Witness, and heard no more.

Court. This Witness has contradicted what Mrs. *Heath* hath sworn, therefore send for her — and Mrs. *Heath* being sent for, and being on the Table in the Presence of Mr. *Hussy*, the said Mrs. *Heath* was sworn again and re-examined.

Said, she knows Mr. *Hussy*, and that he and Mrs. *Simpson* drank Tea with her several Times after there was a Report that the Plaintiff Mr. *Annesley* was going to sue for the Estate, and said she had Discourse with Mr. *Hussy* touching the Plaintiff Mr. *Annesley*, but never told the said *Hussy* that the Lady *Altham* was the Plaintiff Mr. *Annesley*'s Mother, but on the contrary always told him that the Plaintiff Mr. *Annesley* had no Right, and that Lady *Altham* never had a Child.

And the said Mr. *Hussy* being further cross examined; said, he never knew before last *Thursday* that he was to be examined as a Witness in this Cause, nor did he the last *July* put Mrs. *Heath* in Mind of what she had before said to the Witness concerning the Plaintiff Mr. *Annesley*, nor did he know whether she intended to contradict what she before said, it being a Matter of Indifference to him, but believed Mrs. *Heath* then said, she was going only upon the Trial of the Earl of *Anglesea*; said, that he doth not know that he did at the Time of the second Conversation recollect what Mrs. *Heath* had before said to him, but hath recollected the same since several Times, having frequently spoken of it before, but doth not know whether he recollected it last *July*.

Council for the Plaintiff. We will now call another Witness, *Thomas Higginson*, to prove to your Lordships and the Jury, that Lady *Altham* was with Child and at *Dunmeau* that Assizes of *Wexford*, and that she was not at *Wexford*; that he received Rents for the Earl of *Anglesea* and the Lord *Altham*, and that afterwards it was well known and reported in the Country and told to the late Earl of *Anglesea*, that her Ladyship was brought to Bed of a Son.

Council for the Defendant. My Lords, the Plaintiff's Agent or Attorney did not give in the Name of this Witness to the Agent or Attorney for the Defendant.

Court. Call the Witness.

Thomas

Thomas Higginson, who being sworn and examined, said, that he knew the late Lord *Altham*, and was Receiver to *Arthur* late Earl of *Anglesea* from 1711 to 1717, and that he knew the Lady *Altham* in the Year 1715, received the Rents of *Clomines* above two Miles from *Dunmeau*, and four from *Ross*, on *Thursday* before *Easter* 1715, and his Reason for particularly remembering the same was because he was to go back to *Enniscorthy* to Major *Rogers* for Timber, and then he was to get Directions, whether he was to go *Wexford*; that on *Tuesday* after *Easter Sunday* 1715, he went to Mrs. *Giffard's* and from that to *Dunmeau*, and seeing the Coachman's Wife of whom he enquired for Lord *Altham*, she told him his Lordship was gone abroad; that Lady *Altham* came down Stairs and ordered a Bottle of White Wine for the Witness, and a Glass thereof was filled for him, and then he saw her Ladyship with a big Belly, and that on the second Glass he wished her Ladyship a good Delivery; said, he went from thence to *Enniscorthy*, and on *Wednesday* Night lay at *Haye's*, and from thence on *Thursday* Morning he went to *Wexford*; said, that her Ladyship had on the Day he saw her a white Handkerchief loose, a white Apron, and a striped Night-Gown, and that the Witness paid Money to Lord *Altham* at *Wexford* on that very *Thursday*, but did not enquire whether Lady *Altham* was there or not; and saw *John Weeden*, Lord *Altham's* Coachman at *Wexford*; said, that when he went home he always made Entries of the Sums he received, and the Days on which he received the same; said, that on the *Monday* before he received four Pounds, and on *Tuesday* from Mrs. *Giffard* Ten Pounds, on *Wednesday* he received at *Enniscorthy* Twenty-eight Pounds, which the Witness's Son received from the Tenants in the County of *Meath* for Lord *Altham's* Use, and paid it the next Day to his Lordship at *Wexford*; that his Son met him at *Enniscorthy* with the Money he received for Lord *Altham's* Use, and brought it all to the Witness except thirteen or fourteen Shillings, which he laid out in Expences; said, he was informed by Major *Rogers* that the Lord *Altham* was at *Wexford*; said, that he went to *Clomines* on *Thursday* before *Easter* and staid there till the *Monday* following, and that he lay at the House of Mr. *Sutton* from *Thursday* to *Monday*, and then went to Mr. *Houghton's*, and then came back again to *Sutton's* and lay there on *Tuesday*.

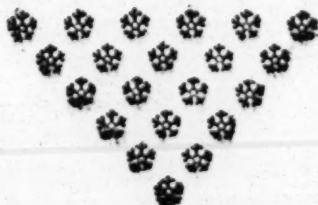
Cross Examined.

Said, he went first to *Dunmeau*, and then to *Enniscorthy*; said, that he had no Business at *Dunmeau* but to ask how the Family

Family did; said that this Day Fortnight he left home, being served with a Subpcena the *Saturday* before, the Eleventh, and looked into his Books last *Sunday* Fortnight, for that he was desired to look over what Papers he had in Relation to the *Anglesea* Estate, that he has but few of them by him, most being taken away from him; said, that in the Year 1713 he receiv'd Mr. *Houghton's* Rent and Mr. *Giffard's* Rent some time in *May*, after the 21st Day, but did not receive any Rent from them in the Year 1714, they having that Year paid their Rent to *John White*, nor did he receive any Rent from them in the Years 1716 or 1717; said that he paid the Lord *Altham* the Money at *Wexford* on *Thursday* about Ten of the Clock in the Morning; said, he had not been at *Dunmeau* for two Years before, nor did he go there least the Lord *Anglesea* should be angry with him.

Said, he saw Lady *Altham* before that Time at *Ross*, and at Church, and that he received Money before that Time in the County of *Meath*; said, that at *Camolin-Park* in the Year 1714, the *Ross* People told Earl *Arthur* that the Lord *Altham* had a Son, and they wished his Lady in the same Condition, on which Earl *Arthur* said he did not expect to see that; said, he had the Book at home with the Entries in it of the Receipts of the Rents he received for Lord *Altham*, that the same is in the Country, will send for it and have it here To-morrow, and took Pen, Ink and Paper, and shewed the Manner in which he kept his Accounts and Entries; said, he doth not say that the People said at *Camolin* that the Lady *Altham* had a Son, and that he went from *Wexford* on the *Thursday* to his own House.

It now being ten o'Clock at Night, the Court by Consent adjourned to the next Morning being *Tuesday* the 22d of *November* at ten o'Clock.





The Tenth Day of the TRYAL.

Tuesday, November 21, 1743.

THE Court having met according to Adjournment, and being sat and the Jury called over, they severally appear'd in the Jury Box, and being seated together.

Court. Gentlemen of the Council for the Plaintiff proceed.

Council for the Plaintiff. My Lords, the Witness we shall begin with is, *William Stephens*, to prove to your Lordships and the Jury, the Conversation this Witness had with *Arthur Herd*, a Witness produced and examined by the Defendant the Earl of *Anglesea* on the Trial, wherein he confess'd to the Witness, that on the Day when Mr. *Annesley* went into *Enniscorthy*, that *Herd* said that the said Mr. *Annesley* was the right Heir to the *Anglesea* Estate, if Right could take Place.

Court. Call the Witness.

William Stephens, being sworn and examined, said, that he knows *Arthur Herd*, but never heard him say any thing of the late Lady *Altham's* having a Son, but had Conversation with him at *Enniscorthy*, who told the Witness, that the young Lord was come to Town, that the said *Arthur Herd* then told him, that the Gentleman then in Town was the right Heir, if Right was to take Place; and that the said Conversation with *Herd*, was the very Day that Mr. *Annesley* came to the Town of *Enniscorthy*.

Cross Examined.

The Defendant's Council desired the Witness to repeat the very Words that *Arthur Herd* said to the Witness. In Answer

to which the Witness said, that the Day the Gentleman came to Town, a great many People being then in the Street, the Witness was standing at *Herd's Door*, on which the Witness asked *Herd*, if that was the Gentleman who was putting in for Lord *Anglesea's* Estate? On which *Herd* said it was, and that he was the young Lord if Right was to take Place. And being ask'd whether the said *Herd* was to be believed on his Oath? The Witness answered, he believed he was to be believ'd on his Oath.

Said, he told *Bartholomew Furlong* what the said *Herd* had told him; said, he knew the said *Herd* came to Town to be an Evidence, but did not know for whom he was to be Evidence; said, he was served with a Subpcena last Sunday in *Enniscorthy*, and that he was brought to Town on a Horse, and that it was one *O Neil* that served him with a Subpcena; said, that neither *O Neil* nor he had not any Conversation about what the Witness was to be examined to, and had a Shilling given him to bear his Expences to Town; said, the Horse he rode on was not his own but a hired one, but knew not who hir'd him, but that the Horse is the Witness's Property while he has him; said, that he keeps a Publick House in *Enniscorthy*, but has no Estate or Farm.

Council for the Plaintiff. My Lords, we will call another Witness, *William Hort*, to prove the same Conversation with *Arthur Herd*, and what the said *Herd* declared to this Witness.

William Hort, who being sworn to the *Voire dire*, said, he was not subpcena'd in this Cause to be a Witness, that he neither has had, is promised, nor does he expect from the Plaintiff or other Person, any Reward, and that he came to Town but last Night, nor as he had as much as a Mug of Ale; and the Deponent being sworn in Chief, said, that he hath known *Arthur Herd* very well this 15 or 16 Years last past; that the Deponent happened to be in *Arthur Herd's* Shop in *Enniscorthy*, having brought some Hair to make him a Wig, and having Conversation with *Herd*, about the Earl of *Anglesea's* Estate, *Herd* said to the Deponent, that *James Annesley*, Esq; as he verily believed, was the true Heir to the *Anglesea* Estate, and not the present Earl. On which the Deponent replied, that he knew him at *Dunmeau* and *Ross* when a Child, the Deponent being a Stay-maker, made Stays for Master *Annesley*.

Cross

Cross Examined.

Said, that he is Fifty-three Years of Age next *Candlemas*, and has lived in the Town of *Enniscorthy* these twenty-three Years, and being asked what Business brought him to this Town, he said he came to Town on hearing this Trial was coming on, and a Gentleman in the Country had a Letter about it, and that the Witness heard the Trial was to come on last *Friday* was Se'nnight, on which he came to Town, that he had no Thoughts of coming up, but his Conscience pricking him he was resolved to come to Town to do Mr. *Annesley* all the Good that lay in his Power, from what he heard *Herd* say, and the Letter that came to *Enniscorthy* to Mrs. *Sinnott* there, giving an Account that the Trial was going against Mr. *Annesley*, and therefore the Deponent came up to this Town.

Said, he saw and knew that *Herd* was coming up to Town, and thought he was coming up on Behalf of Mr. *Annesley*, from what he declared to the Deponent; said, he had Conversation with Mrs. *Sinnott* about that Matter, and that she shewed the Deponent the Letter wherein it was mentioned the Earl was likely to outdo the young Man; said, the aforesaid Conversation was last *Monday* was a Week, and if he had not overtaken the Trial, he knew the Way back again.

Council for the Defendant. The next Witness we shall beg Leave to examine is *John Ryan*, a Priest, who will give your Lordships and the Jury an Account of the Conversation between him and Father *Michael Downs*, what he said he was to have for giving Testimony on Behalf of the Defendant, and of the said *Downs's* Intention to apply for Absolution.

Court. Call the Witness.

John Ryan, who being sworn and examined, said, that he knows Father *Michael Downs*, and had some Conversation with the Lord *Altham's* Son, on which Mr. *Downs* said he would swear that Lord *Altham* said to the Boy, *Get up you Bastard, and salute the Gentleman that made a Christian of you.* I will swear this and am to have two hundred Pounds for banishing him; said, that this Discourse was with Father *Downs* on *Sunday* last; on which the Deponent told *Downs* that his Memory was slack and that he ought not to say that he was not sure of; that thereupon *Downs* replied, if he should happen to be mistaken, that the Deponent must apply for an Absolution for the

said *Downs* ; said, he did not know that *Downs* had applied for an Absolution, nor did the said *Downs* speak any thing to the Deponent about this or any other Trial.

Cross Examined.

Said, he is a Roman Catholick, but refused to answer whether he was a Popish Priest ; said, that he went to pay a Visit to Mr. *Downs*, and not about the Trial, but could not tell what Father *Downs*'s Intention was about swearing in this Cause, but that the Deponent's own private Opinion was, that he was and is afraid that Mr. *Downs* might be corrupted.

Said, that it was from Father *Downs*'s telling the Deponent that he was to have two hundred Pounds ; that there was some Corruption, and by Corruption the Deponent meant a Falshood *Downs* was to swear ; said, he is now next Parish Priest to Father *Downs*'s Parish, and that Father *Downs* is look'd upon to be a loose Man, and would tell any Thing he knows or heard ; said, that no Priest will give Absolution to the Deponent to swear Perjury, but if after a Person had committed Perjury, by Repentance he might obtain Absolution.

Court. Call *Matthew Downs*.

Who having appear'd and being Sworn, and *Ryan* the Deponent on the Table, *Downs* was examined ; said, he knows *Ryan* the Deponent on the Table, and saw the said *Ryan* last *Easter*, but had no Conversation with him.

Court. Witness, *Ryan*, do you hear what *Downs* says ?

H. Ryan. My Lords, I do, and I saw *Downs* on a Sunday last Harvest was twelve Months, and had Conversation with him, and by the same Token rode with *Downs* to *Tentorn*, where he went to the Place he us'd to say Mass, and *Downs* would not stay to say Mass for that some Person was to be buried, and said he could not stay to Mass.

Court. *Downs*, do you hear what *Ryan* says ?

Downs. My Lords I do, and believe what *Ryan* has now said to be true, but deny that I ever said to *Ryan* that I was to have two hundred Pounds to banish Mr. *Annesley*, or that I applied for Absolution, or said any such thing to him ; but, my Lords, this *Ryan* is not to be believed, for he is a drunken, idle

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Whoremaster, and therefore not to be believed ; and upon my Oath I never said any Thing to *Ryan* about his procuring me Absolution, nor ever had I any such Conversation with him, or to that or the like Effect.

Mr. Baron Mountney. *Downs*, did you know the late Lord *Altham*, and the present Earl of *Anglesea*, have you got, or have you received, or are you promised any Momey to give your Testimony in this Cause ?

Downs. My Lords, I did know *Arthur* late Lord *Altham*, and do know the present Earl of *Anglesea*, and upon my Oath I never had, or received any Money, or have I been promised any Money to give my Testimony ; and, my Lords, Captain *Loftus* and the present Sovereign of the Town of *Ross*, now in this City will give a Character of me.

Court. *Downs* withdraw, and the said *Downs* having withdrawn, the Witness *Ryan* being still on the Table was further cross-examined ; said ; that he now lives when at home in the County of *Wexford*, between *Enniscorthy* and *Wexford*, and has lived there about three Years ; and that he lived before in the *King's* County near *Philipsdown* for two Years, at a Place call'd *Aghaboe* ; said that one *Baggs* lived in that Country, one *Web*, and Father *Derby Clery* is Priest of *Aghaboe* ; said, that upon his Oath, *Downs*, the Witness last upon the Table, did say he would apply for Absolution.

Said, he did not voluntarily come to this Town to be examined as a Witness, but on the contrary made his Escape and kept out of the Way, for fear of being found out to be sub-pœna'd as a Witness, and said that having told the Conversation that happen'd between him and *Downs* to some People in *Ross*, whom he believed had informed some of the Managers for the Plaintiff *Mr. Annesley* who found out the Witness, and that he spoke of the said Conversation a Fortnight ago, and particularly told the same to one *Mr. Hickie* a Priest, that goes up and down, and that he also told the same to one *Kelly*, but that he had no Reward for discovering the same ; said, that the Witness was in Company with three Gentlemen in the Town of *Ross*, who told the Witness that Father *Downs* was gone to *Dublin* to be a Witness in this Cause, and that thereupon, the Witness had related to them what the said *Downs* had told the Witness, and of the Witness's Answer to the said *Downs* ; and that he told the same to one *Kelly*, but knew not that the said *Kelly* had collected Witnesses for the Plaintiff *Mr. Annesley* ;
said,

said, he did see the said *Kelly* the Day that the Witness came to Town, which was on *Monday* was Sevenight, and that the Witness does lodge at the Inn wherein the Plaintiff *Mr. Annesley's* Witnesses are, being at the *White-Cross* in *Pill-Lane*; said, he never was at that Inn before, that he kept Company with the said *Kelly* to *Dublin*, and that it was the said *Kelly* that shewed the Witness that Inn, but did not know that any of the Witnesses for *Mr. Annesley* was there, and denied that the said *Kelly* did introduce him to *Mr. Mac Kircher*, or to *Mr. Annesley*.

Said, that he saw the Plaintiff *Mr. Annesley* before the Witness was served with a Subpœna; said, that he went for his Horse to the Sun to take him away, and when he found that *Mr. Annesley's* Witnesses were there, and that the Inn-keeper would not give him his Horse, for that an Action was laid on the Horse by the said *Kelly*, and therefore the Inn-keeper would not let the Witness have his Horse; that the Witness thereupon went to *Mr. Annesley* to get his Horse, but did not get him; said, it was one *Fottrel* that told the Witness *Kelly* had laid an Action on his Horse, to keep the Witness at that Inn, otherwise he would not have staid there; said, he does not know the Lord *Montgarret* if he should see him.

Council for the Defendant. My Lords, we will ask the Witness no farther Questions.

Council for the Plaintiff. My Lords, we must now beg leave to read the Will and Codicils of *James Earl of Anglesea*, for, my Lords, the Land in Question is for the *Altham* Estate, and not for the *Anglesea* Estate.

The Will of *James Earl of Anglesea*, dated the 14th of May 1701 read, wherein is mention'd that the Lands in the Kingdom of *Ireland*, of which he levied a Fine and suffered a Recovery to *John Lord Hawersham*, *Mr. Justice Cote*, and *Arthur Annesley* his Brother, and to their Heirs and Assigns for ever, is limited to them in Trust for Payment of *Earl James's* Debts, then to the Use of his Brother *Arthur* for Life, and to the first and other Sons of *Arthur*, and to his and their Heir Males of their Bodies, and for want of such Issue to *Richard Lord Altham*, and his first and other Son in Tail-Male, and on Failure to *Charles Annesley* for Life, and his Heirs Male.

Lord Chief Baron. Do you read this Will to shew, that Lord *Altham* was not Tenant in Tail?

Council

Council for the Plaintiff. My Lords, we do.

Council for the Defendant. My Lords, we must beg leave before the Plaintiff's Council further proceeds to read the Will and Codicils, to call Colonel *Loftus*, who attends in order to give a Character of Father *Downs*, to whom the said *Downs* has appealed for a Character.

Court. Call Colonel *Loftus*.

Colonel *Loftus* being sworn and examined; said, that he knows Father *Michael Downs*, and that he is a Man of good Character in his Country, and that he would believe him on his Oath, but can't Frame any Belief about his having an Absolution; that the Deponent does not remember that he was at the Assizes of *Wexford*, when the Pretender's Men were tried, and then the Deponent withdrew.

Mr. Baron *Mountney*. Let Mrs. *Heath*, Mrs. *Cole*, and *Elinor Murphy* be called, for much of this Cause depends on their Testimonies.

Council for the Plaintiff. My Lords, before the above Witnesses are examined, we must beg leave to read the Codicils annexed to Earl *James's* Will relative to the Lands in the County of *Meath* and *Ross*.

Court. Gentlemen, go on as you think proper.

Then a Codicil was read, whereby the Lands in the Counties of *Meath* and *Ross* were limited to *Arthur Lord Altham* for Life, and after his Decease to the first and every Son and Sons in Tail Male, and for want of Issue to his Daughters, and one Thousand Pounds a Piece to the Six Daughters of *John Lord Haversham*, out of his Estates in *Kildare* and *Kilkenny*, and for want of Issue in *Arthur Lord Altham*, his Estates in *Meath* and *Ross* limited the same to his Brother *Richard* for Life, and after his Death to his first and every other Son in Tail Male, and for want of such Issue to go back as by his Original Will.

That *Arthur Lord Altham's* Estate was not charged with the Payment of his Wife's Jointure, and if it was, *Lord Altham* was to have Restitution out of *Earl James's* Estates.

Council for the Plaintiff. My Lords, this first Codicil we have now read, dated the 9th Day of *December 1701*, is to *Arthur Lord Altham* for Life, and the Heirs Males of his Body, with Remainders over, so that this Estate for which the Ejectment is brought, of Right belongs to the Lessor of the Plaintiff Mr. *Annesley*.

Coun-

Council for the Defendant. My Lords, the Will and Codicils make but one Will, and the Limitations and Estates are vested in the Trustees, and my Lords the Codicil of February 1701, is annexed to the Will of May 1701.

Court. Gentlemen, we thought the single Question in this Case was only as to the Legitimacy, and not any other Point before the Court, being a meer Matter of Fact?

Council for the Plaintiff. My Lords, *Thomas Higginson* on his Testimony Yesterday; said, he would send for his Books of Accounts; he is now in Court and is ready to produce them if the Council for the Defendant requires it.

Thomas Higginson appeared and produced the Book of Accounts.

Council for the Defendant. My Lords, We do not require his producing his Books, and then *Higginson* withdrew.

Court. Send for *Elinor Murphy* and *Mary Doyle*.

They both appeared on the Table, and *Mary Doyle* was ordered to withdraw.

Court. Clerk, swear *Elinor Murphy*, who being sworn and examined by the Court; said, she was Laundry-maid at *Dunmeau*, and the Servants when she was there, were Mrs. *Heath*, *Anthony Dwyer*, but did not know who was Gardiner, but believ'd his Name was *Arthur*, and that *Mary Doyle* was House-Maid, said she did not know Mrs. *Hesewright*, nor whether she was House-keeper, or brought down by Lady *Altham*, that there was no Man-Cook there, whilst the Witness lived at *Dunmeau*, and is sure she was there three Quarters of a Year at *Dunmeau* after Lady *Altham* came down there, and the Witness was Under Laundry-Maid; said there was a Gardiner, and a Woman weeding in the Garden called *Murphy*; said it was Mr. *Taylor* that hired the Witness, and that she knew there was a Lady in the House, and saw that Lady before she had a Child, but could not remember who was Butler then.

Court. Call *Thomas Rolph*.

Who appearing was sworn.

Elinor Murphy being on the Table.

Court. *Elinor Murphy*, do you know that Man now on the Table?

The Witness swore she never saw him before.

Court. *Rolph*, do you know that Woman on the Table;

Rolph.

Rolph. My Lords, I do not know her.

Court. *Rolph*, Give me an Account when you first went to live with Lord *Altham*, and how long you continued there?

Rolph. My Lords, I came Butler to *Arthur* late Lord *Altham* in the Year 1711, and continued with him 'till between *Michaelmas* and *Christmas* in the Year 1715; — said he was not in *Dublin* with Lord and Lady *Altham*, at their Reconciliation, but was at *Dunmeau* when they came down there, and was never from *Dunmeau* during the Time of Lord and Lady *Altham*'s being in *Dublin*.

Court. Call *Mary Doyle*.

Who appeared and being sworn was examined by the Court.

Court. Do you know that Man *Rolph* on the Table?

Doyle. My Lords, I can't say that I ever saw him.

Court. Who was Butler at *Dunmeau* when you lived there?

Doyle. My Lords, *Charles Maegher* was Butler when I was there; which was only for three or four Months, and that *Dennis Redmonds* knew that *Maegher* liv'd there then.

Court. Call *Dennis Redmonds*.

He was call'd and sent for.

Elinor Murphy was farther examined, said she was Servant at *Dunmeau* for about a Quarter of a Year before *Mary Doyle* went there to live, and before Lady *Altham* went there, and that the Witness was Servant to Madam *Butler* at *Rofs* before she went to live at Lord *Altham*'s, and went from Madam *Butler*'s to his Lordship's and had a Discharge, and gave the same to Mr. *Taylor*.

Court. *Rolph*, was *Joan Laffan* in Lady *Altham*'s Service whilst you were there?

Rolph. My Lords, *Joan Laffan* was not in the Service whilst he was there, and that he was in the House at *Dunmeau* the *Christmas* 1713, when Lady *Altham* went down there.

Court. *Elinor Murphy*, was *Dennis Redmonds* at Lord *Altham*'s whilst you lived there?

Murphy. My Lords, *Dennis Redmonds* was there before I went to live at Lord *Altham*'s,

Court. *Rolph*, Do you know that Lord or Lady *Altham* went to *Dublin* after he came from *Wexford*?

Rolph. My Lords, I do not remember whether Lord or Lady *Altham* went to *Dublin* after their coming from *Wexford*.

Court. Call *Joan Laffan*.

She appeared and was sworn.

Court. *Rolph*, how much did it cost you coming over to *Ireland* to Lord *Altham*, and how much going back, or did you ever demand any Money from his Lordship?

Rolph.

Rolph. My Lords, it cost me eight Pounds coming over to Ireland, but not so much going back, and I never demanded any Money from Lord Altham.

Court. *Joan Laffan,* Do you know *Thomas Rolph* the Man now on the Table, and who was Butler whilst you were at Lord Altham's.

Joan Laffan. My Lords, I do not know that ever I saw him before, and that *Maegher* was Butler during her Time, but that she heard there was a Buttler there before, but does not remember his Name; — said, she hath known *Murphy* and *Doyle* on the Table these twenty Years, but neither of them were Servants to Lady Altham whilst the Witness was there; said, that Lady Altham hired her at *Dunmeau*, but it was not before *Michaelmas* 1715 but near *All-ballantide*.

Court. *Rolph,* Did you live in *Kent*, and when did you leave *Dunmeau*, and where was Lord and Lady Altham?

My Lords, I did not live in *Kent*, and that it was after Harvest 1715 that I left *Dunmeau*, for it was after *Michaelmas* that Lord and Lady Altham went to *Dublin*, and they had not been gone above two or three Months, that his Lordship went twice to *Dublin*, and the last Time he went there his Lordship was in *Dublin* about a Month before I went away from *Dunmeau*.

Court. Call *Dennis Redmonds*.

He appeared and was sworn.

Court. *Elinor Murphy,* where were you at the Great Eclipse?

Murphy. My Lords, I remember the Great Eclipse and I was then in *Ross*, and it was before I went to live with Lady Altham.

Court. How long did you live with Lady Altham before she was brought to Bed?

Murphy. My Lords, I lived a Quarter of a Year with her Ladyship before she was brought to Bed.

Court. *Dennis Redmonds,* Do you know *Rolph* on the Table?

Rolph, Do you know *Redmonds*?

They severally answer'd they knew each other, and lived at *Dunmeau* together, but *Redmonds* said he did not remember when or upon what Account *Rolph* left the Service — *Redmonds* said that *Maegher* was Butler at the Christning, and gave the Drink.

Mary Doyle said *Maegher* was Butler.

Rolph said he never heard of any such Person.

Elinor Murphy said *Maegher* was Butler.

Joan Laffan said, she heard *Maegher* was Butler.

Mary

Mary Doyle said, she could not remember how long *Elinor Murphy* was at *Dunmeau*.

Then the said *Murphy*, *Doyle* and *Redmonds* were examined as to the Christning and the Rejoicings—and they severally swore to the Rejoicings at the Christning with the same positiveness as in their first Examination without the least Contradiction.

Redmonds then swore that *Rolph* went away before the Rejoicings, and on his Oath he did not know whether Lord and Lady *Altham* were in *Dublin* or in the Country when *Rolph* went away, and knows nothing of the Occasion of *Rolph's* going away, or of the said *Rolph's* having any Quarrel with the Gardiner; said the Witness brought the Midwife to *Dunmeau*, and left her in the Yard, that she went into the House, but that he went into the Stable to put up his Horse, said that the Midwife spoke English to him.

Then all these Witnesses were ordered to withdraw except *Rolph*.

Court. Call *John Turner*.

The Deponent appeared and being sworn and examined by the Court; said, he went to make a Visit at *Dunmeau* in December 1714, and staid there six or seven Weeks, but does not know *Rolph* on the Table.

Rolph said, he did not know *Turner*.

Turner said, he could not take upon himself to say who acted as Butler whilst he was there; said, that he went there again in July or August following, and staid there one Night only, and *Rolph* did not act as Butler.

Said, Lady *Altham* was at *Dunmeau* the 1st of August 1715.

Rolph said, Lord and Lady *Altham* were in *Dublin* in August 1715, and were there two or three Months before he left *Dunmeau*, for that they left *Dunmeau* the latter End of June or the Beginning of July and did not return till after the Deponent left *Dunmeau*; and said he was sure Lord *Altham* went to *Dublin* about three Weeks or a Month after his Lordship came from *Wexford*, and never saw his Lordship after, for that the Deponent when he went over to *England* procured a Place in the Guards, and they were then in Camp at *Hide Park*.

Turner being examined said, he overtook Lord *Altham* going to the Assizes of *Wexford*, that his Lordship was in a Coach; and the Deponent rode, but did not remember any Body's being with his Lordship in the Coach, and believed it was at the Time when *Walsh* and others were tried, that Lord *Altham* had two Servant Men with him, but did not see either Woman or Girl, not having seen any Body with his Lordship; said,

that he was that Day at *Dunmeau* after Lord *Altham* had left it to go to *Wexford*, and the Deponent there saw Lady *Altham*, that the Deponent staid at *Dunmeau* after his Lordship left Home and her Ladyship behind him, and is positive that it was at the Spring Assizes when Walsh and the others were tried.

Mr. Prime Serjeant *Malone* cross examined him, who said, he does remember the great Eclipse, and believed it was in Summer, or the Beginning thereof, and believed it was the Year after his going to the Assizes; said he was then in the County of *Wexford* at Mr. *Colclough's*, or near it, about seven Miles from *Wexford*, and that the Deponent was then going to *Wexford*; said, he could not remember any particular Trial at *Wexford* when he was there.

Rolph and *Turner* withdraw.

Court. Call up the Women, Mrs. *Cole* and Mrs. *Heath*.

And they being called, severally appeared on the Table, and were sworn.

Court. Mrs. *Heath*, give an Account who was Butler at *Dunmeau* when you went there, and when you came up to *Dublin*, and when you returned?

Mrs. *Heath*. My Lords, *Rolph* was Buttlr when I went down to *Dunmeau*, and when I came up to *Dublin* the first Time, and when I returned back, *Rolph* was gone, he having a Quarrel with the Gardner; said, s.e saw the Fireworks from Captain *Annesley's* Lodging the 1st of May 1715, and did not leave the Town then for a whole Year; said, that *Charles Maegher* was hired as a Butler, and sent down to *Dunmeau* before them.

Lord Chief Baron to Mrs. *Heath*. When did Lord and Lady *Altham* go down to *Dunmeau*?

Heath. My Lords, the Lord and Lady *Altham* went immediately from Captain *Briscoe's* down to *Dunmeau*.

Court. Mrs. *Cole*, what do you say to that Question?

Mrs. *Cole*. My Lords, the Lord and Lady *Altham* staid three or four Days at my Father's House, and went then to the House of Mrs. *Vice*, and is certain they lodg'd at Mrs. *Vice's* after they left her Father's, and her Reason for it is, that it would look better and have a better Face of their Reconciliation lodging in another Place, and going to live at Lord *Altham's* Lodging. And gave the same Account of Lady *Altham's* Indisposition after the Deponent and her Mother went down to the Country, and swears that Lady *Altham* miscarried, and that Mrs. *Heath* told her Mother that Lady *Altham* had miscarried.

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Court. Mrs. *Heath*, what do you say to what Mrs. *Cole* swears?

Heath. My Lords, I never told either Mrs. *Briscoe*, or the Deponent on the Table that Lady *Altham* had miscarried, and never called Mrs. *Briscoe* up.

Mrs. Cole. Swore she was the next Morning in Lady *Altham*'s Bed Chamber, and her Mother shewed her the Matter, what they called the Miscarriage, and she was then thirteen or fourteen Years old, and that she is now about Forty-five Years old, and that Lady *Altham* kept her Chamber after the Miscarriage, being the Day after the Affair of the Saucers.

Court. Mrs. *Heath*, what do you say to what Mrs. *Cole* has said?

Heath. My Lords, I swear that Lady *Altham* did not keep her Room the Day after the Saucers.

Mrs. Cole said, that Rolph was the Butler when she was there, and that Lady *Altham* kept her Room several Days after the Affair of the Saucers.

Court. These Witnesses may withdraw.

Council for the Plaintiff. My Lords we have now done with our Evidence.

Council for the Defendant. My Lords, it is too late for us now to speak to the Evidence after so long a Trial, and the number of Witnesses examined, we must take Time to prepare ourselves for that Purpose.

Court. We will adjourn to Thursday next, that the Council on both Sides may be prepared fully to speak to this Cause,—that the Jury may go together early to confer on the Evidence, and accordingly the Jury were prefixed to *Thursday*, at half an Hour after Eight of the Clock in the Morning, then to proceed on the Trial;—and the Court was adjourned.





T H E

Eleventh Day of the TRYAL,

Thursday, November 24, 1743.

TH E Court having met according to Adjournment, and being sat, and the Jury called over, they severally appear'd in the Jury Box, and being seated together.

Court. This Day was appointed by the Court for the Council on both Sides to speak to this Cause, which has lasted so many Days, and entirely has taken up the Court to the Prejudice of many Suitors, hope we can get through the same this Day; therefore Mr. Prime Serjeant, you promised to speak to this Case first for the Defendant, please to proceed.

Sir *Thomas Taylor* Foreman of the Jury. My Lords, I am directed by my Fellow Jurors to know from your Lordships what we are intitled to for our Attendance all this Trial;

Then the Attornies on both Sides agreed to pay the Jury, on Return of their Verdict, twelve Pounds each Man.

Lord Chief Baron. This being now settled, as to what the Jury are to have, Mr. Prime Serjeant please to proceed.

Mr. Prime Serjeant *Malone*. My Lords, I shall endeavour to speak to the Evidence given on this Trial as fully as I can, considering the Length of Time it has taken up, and, my Lords, the single Fact before the Court and the Jury in this Case is, whether the Lessor of the Plaintiff Mr. *James Annesley* be the legitimate Son of *Arthur* late Lord *Altham*, and, my Lords, when the Plaintiff's Case is stripp'd of its Ornaments, it will appear to be built on a rotten Foundation.

My Lords, in speaking to this Case, it will be necessary for me to consider this Family, before I proceed to the Evidence,
and

and my Lords, I shall, as briefly as possible state to your Lordships and the Jury what I have to observe concerning the Family of the late Lord *Altham*.

First, then, my Lords, I would observe to the Court, that *James* Earl of *Anglesea* who made the Settlement in this Family, and who had the whole Estate in him, had five Sons, viz.

John, his Eldest Son.

Richard, his Second Son, who had Issue *Arthur*, late Lord *Altham*, and *Richard* the present Defendant who is now Earl of *Anglesea*.

James, his Third Son.

Charles, his Fourth Son. And

Arthur, his Fifth Son.

His Second Son *Richard* Lord *Altham*, died in the Year 1701, leaving *Arthur* late Lord *Altham*, and the present Defendant in this Cause, the Right Honourable the Earl of *Anglesea*.

My Lords, Earl *James*, on the 14th of May 1701, made his Will, and limited an Estate to *Arthur* for Life, Remainder to his first and every other Son in Tail Male.—Subsequent to this on the 9th of December 1701 Earl *James* made another Will, with a Remainder to *Arthur* late Lord *Altham*, but no Provision for the Defendant *Richard* who was then living, and not capable of offending. And the same Day Earl *James* made another Codicil,—and to the Will of the 10th of December 1701 affixed two Codicils, —and on the second of January 1701, made two Codicils more which were annexed to both Wills. So the Will of the 14th of May 1701 is now set up by the Lessor of the Plaintiff Mr. *Annesley* under which he rashly presumes to contest with *Richard* Earl of *Anglesea*, his Right to the Estate of *Arthur* late Lord *Altham*.

My Lords, Earl *James* died in the Year 1701, and Earl *John* died in 1710 without any Issue, and Earl *Arthur* became intitled under Fines and Recoveries, and Earl *Arthur* also died without Issue.

According to this Descent, my Lords, *Arthur* late Lord *Altham* was the next who succeeded to the Honour, Dignity, Title and Estate of Earl *Arthur*. But so it happened, and I believe it has been made appear to the Satisfaction of your Lordships and the Gentlemen of the Jury from the Defendant's Evidence, that *Arthur* late Lord *Altham* left no Son, no Child at all, either Male or Female, to succeed him in his Honour, Dignity, Title and Estate. And indeed, my Lords and Gentlemen, it is something strange and incredible too, that *Arthur* late Lord *Altham* should have a Son born of his Lady *Mary*.
and

and that his Neighbours, his Tradesmen, his Friends and Acquaintance amongst whom he lived, and who frequently resorted to his House, should never so much as hear or see the Son now pretended by the Plaintiff in this Cause to be the Heir of the said *Arthur Lord Altham*. I say, my Lords and Gentlemen, it is a Circumstance very surprizing, and requires your Consideration. But pray, my Lords and Gentlemen, this Event is attended with another Circumstance equally astonishing, and that is, my Lords, that none of the News-Papers of that Time so much as mention that the late Lord *Altham* had a Son. Certainly, had his Lordship been bless'd with a legitimate Son, the weekly Papers would of Course have rung with the Report thereof. I need not inform the Court, that it is the constant Custom of the News-writers to fill their Papers with Paragraphs of this Sort, it is so notorious, that every Day, in all the daily Papers both in this Kingdom and in *England*, any one may read, The Lady of ——— was yesterday safely deliver'd of a Son at ——— to the great Joy of that noble Family, which last Words the News-writers generally add, when the Lady of such a noble Family has been many Years married, and not till then had a Child. It is worthy Observation, and it is generally the Case, that when a noble Family has been many Years without an Heir, the Eyes of the whole World are upon them, and when it so happens that they have a legitimate Heir, it becomes so surprizing, that all People must take Notice of it, the Notoriety of the Fact must be known to the Publick; but in the Case before the Court, even the Family themselves do not know it. It was, my Lords, a Secret to them, who were interested in the Succession, and much more so to the whole World. The Evidence, my Lords, upon which the Plaintiff founds his Pretensions are two or three of the meanest Servants of Lord *Altham's* Family, which shews the Weakness of the Cause he has undertaken.

My Lords, as to the Proofs which the Plaintiff has advanced to support his Pretensions, I must take Notice of that concerning the Fondness shewn to the Plaintiff when a Child. This, my Lords, is no Reason at all that the Plaintiff is the legitimate Son and Heir of Lord *Altham*. A Man may and often is fond of his Bastard Son, and why should he not? Why should not a Man be as careful of his Offspring tho' it be by his Servant-maid as that of his own lawful Wife? Nature in this Case dictates the same. And numberless Instances might be produced to shew how fond Parents have been and are of their illegitimate Offspring, and some have even disinherited their legitimate Children in fa-

your

vour of their illegitimate. So that, my Lords and Gentlemen, this is no Argument, I mean Lord *Altham's* Fondness of the Plaintiff, that he is his Lordship's real Son and Heir.

It is evident, my Lords, that the Plaintiff has failed in proving what he lays down as the Foundation on which he raises the Super-structure, the Birth of a Child, and by his own shewing destroys the very Credibility of his Pretensions, and this he has effectually done by making it appear, that Lady *Altham* underwent two Miscarriages and one Birth, within the Compass and Space of but One Year. And tho' the Plaintiff has brought to shew that Lady *Altham* was a very fruitful Woman; yet the Jury themselves I doubt not, from their own Observations in Life, will readily see how unlikely, how impossible a Thing it is, for a Woman to miscarry twice in one Year, at two Times very distant from one another, and yet within that very Year be brought to Bed of a Son.

My Lords, we of the Side of the Defendant, do readily admit, that Lord and Lady *Altham* were married in the Year 1706, that they parted in the Year 1709 and that they were reconciled in the Year 1713. Here was a Separation for the Space of four Years. Lord and Lady *Altham* did not cohabit and live together as Man and Wife all that Time. The Occasion of their Separation, their Falling-out on Account of Mr. *Palliser* was known and credited by the whole Country round about *Dunmeau* and *Ross*. The Neighbours of Lord and Lady *Altham* are likewise Witnesses of their Separation. Now as to the Reconciliation of Lord and Lady *Altham* after so long a Separation, the Event must of Course excite the Curiosity and draw the Attention of the Neighbours and Gentry in that Part of the Country, and more particularly, as I said before, it must concern the Family who was interested in the Event, I mean the Birth of a Son and Heir to Lord *Altham*. And, my Lords, as there is no sufficient Proof of such a legitimate Birth, as appears there is not from these Considerations, which I have humbly offer'd, the Jury must, they have a good Foundation to find a Verdict for the Defendant, and give him Costs.

But, my Lords and Gentlemen of the Jury, the Plaintiff's Council have taken two Methods to prove and support their Cause.

First they produce the two *Briscoe's*, the Daughters of Capt. *Briscoe*, and these say, that Lady *Altham* came from *England* to *Ireland* some Time about the latter End of October, or the Beginning of November in the Year 1713, and that Lady *Altham* came to their Fathers House, and that she staid there six Weeks, and they further say, that Lady *Altham* left their Father's

ther's and went and lodged at Mrs. *Vice's*, and that from thence her Ladyship went down into the Country. In this Case, my Lords, the Evidence of Mrs. *Cole* for the Plaintiff, and the Evidence of Mrs. *Heath* for the Defendant is in my humble Opinion by the Court and Jury to be duely weighed and considered. And, my Lords, as to Mrs. *Cole* she herself says, that at the Time of this supposed or pretended Reconciliation between Lord and Lady *Altham* she was but a Child, a Girl, of about eleven, twelve or thirteen Years of Age at most. How can it be expected that one so young, at the Distance of twenty-nine Years; (now my Lords, it is twenty-nine Years and upwards since the Reconciliation) should retain any Impressions of an Affair which at that Time of Day (I mean at the Age of Eleven or Twelve) she could form no Idea of. Certainly the Evidence of Mrs. *Heath*, must in this Case prevail with the Court and Jury, Mrs. *Heath*, my Lords, was Lady *Altham's* Waiting-Woman, came from *England* with her, and lived with her Ladyship 'till the Time of her Death. Mrs. *Heath*, my Lords, was then in the Prime of Life, and according to my Instructions, was about twenty-five Years of Age, a Time of Life when all the Human Faculties are in full Strength and Vigour; what is done and transacted when a Person is of that Age may easily be retain'd, then Judgment is strong, and Memory retentive. And therefore I will appeal to the common Reason of Mankind in this Particular, whether the Evidence of Mrs. *Cole* or that of Mrs. *Heath* is to be preferred? 'Tis true, my Lords, both the Witnesses were upon the Spot, Mrs. *Cole* says, that Lady *Altham* lodged at her Father's House six Weeks, and Mrs. *Heath* only three Weeks; Mrs. *Cole* was then a Child, and Mrs. *Heath* a Woman grown. Mrs. *Heath* could not be mistaken, but Mrs. *Cole* might. And therefore, in my Opinion, and I hope it will be the Opinion of the Court and Jury that the Evidence of Captain *Briscoe's* Daughter is of no Avail or Force.

In the next Place, my Lords, the Council on the Side of the Plaintiff and their Evidence tell us a long Story concerning a Miscarriage Lady *Altham* had at *Dunmeau*. Mrs. *Cole* swears, that in six Weeks after Lady *Altham* left *Dublin* she and her Mother went down to *Dunmeau* to the House of Lord *Altham*, but that she was not certain whether it was in *April*, *May* or *June* in the the Year 1714; this seems to be rather a Dream of Mrs. *Cole's* than any thing else; of the same Sort, is what this Witness says about Mrs. *Heath's* calling up the Witness's Mother; the Mother's Rising, and lastly the Miscarriage; Mrs. *Cole* further says, that she saw the Abortion in a *Bason* the next Morning, that her Mother shew'd it her; but this is but a Story,

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Story, which the Witness had told so often, that at length she has even, it seems, persuaded herself to believe to be really Truth, and thereupon has sworn it here in Court. For the Truth however of what Mrs. Cole asserted she applied to Mrs. Heath, and says that *Rolph* knew it likewise to be so. But both Mrs. Heath and *Rolph* who were then Servants to Lord and Lady *Altham* in the House at *Dunmeau*, contradict Mrs. Cole in this Point, and positively say, that they never knew, saw, or heard that Lady *Altham* had miscarried. And, my Lords, nothing is more likely, nay, I may say, that this is certain, that if Lady *Altham* had miscarried, at the Time pretended, Mrs. Heath being her Ladyship's Waiting-Woman, must be privy to the Miscarriage, and as she knows nothing of the Matter, it follows that no such Miscarriage happen'd, as Mrs. Cole has pretended.

But, my Lords, the Plaintiff to illustrate this Case the better has set up a second Miscarriage, and for that Purpose has produced one *Catherine Cormick* who was a Servant at the House of Mrs. *Vice*, when Lady *Altham* lodged there, and she says that Lady *Altham* came to Town in May 1714, and miscarried in June or July; that her Ladyship was with Child before Christmas the same Year, and that her Ladyship was brought to Bed in May or June following. So that *Cole* and *Cormick* do not agree in their Evidence, and therefore I submit it to the Court whether any Credit should be given to them.

As to *Cormick's* Evidence it is palpably absurd and contradictory in itself, for she swears, that Mrs. *Lawlor* the Midwife attended Lady *Altham* for a Fortnight after the Miscarriage, yet Mrs. *Lucas* a Gentlewoman of the same Profession was not sent for, tho' it is said, she was called for; and in August both Miss *Brisco* and Mrs. *Cole* swear, that they saw Lady *Altham* in August 1714, and that they neither saw nor heard that Lady *Altham* had miscarried. And is it conceivable, that this Miscarriage could have been a Secret to the Family of the *Brisco's* who frequently visited Lady *Altham*? the Circumstance mention'd that Mrs. *Lucas* was going to be sent for by Lord *Altham* agrees with what Mrs. Heath has given an Account of, and the Cause thereof, therefore what *Cormick* swore is not to be credited.

The next, my Lords, is the Testimony of *Alice Bates*, who says, that in two Months after this Miscarriage, Lady *Altham* was visibly big with Child, and that she put her Hand on Lady *Altham's* little big Belly; which Evidence is so absurd and contradictory that no Regard ought to be paid to it. My Lords, the Lord *Altham* might accustom himself to joke with

mean People, but surely it cannot be imagined that Lord *Altham's* clapping the Witness on the Shoulder, and saying, *By God Almighty Moll Sheffield is with Child*, is a Reason that she should be credited; but is a Proof to the contrary, because this Witness says, that she told what passed between Lord *Altham* and herself in the *Briscoe's* Family, and yet it appears, that no one in that Family ever heard of it. This seems to be forged, and more plainly, because *Cormick* says, that Lady *Altham* was young with Child, therefore this Proof ought to be clear'd up by the Plaintiff's Council.

We are come now, my Lords and Gentlemen, to the remarkable Period of Time, wherein the supposed Birth of the Plaintiff happened at *Dunmeau*, about the latter End of *April* or the Beginning of *May* in the Year 1715, to prove which, they produce to your Lordships one *Dennis Redmonds*, who was a Stable-Boy, and Boot-catcher to Lord *Altham*. My Lords, upon his own Evidence he is not to be credited, for he sets out, that he came into Lord *Altham's* Service thirty-three Years ago, which was before Lord and Lady *Altham* was reconciled, and says, he remained in his Lordship's Service for three Years. Now, my Lords, Lord *Altham* went to live at *Dunmeau* in the Year 1711, so that *Redmonds* came into Lord *Altham's* Service in 1710 or 1711. And as *Redmonds* served his Lordship but three Years, he must have left the Service before the Time assigned for the Birth of the Plaintiff, and therefore, my Lords, it is a Thing impossible, that what he has said should be true, and as the Witness is a very mean Person little Regard ought to be given to him, he ought not to be believ'd. This Witness said, he knew *Rolph* in the Service, but yet being interrogated he remember'd no Circumstance relating to him, nor did he know any other of the Servants in the House, but one, that is *Charles Maegher*, who was not in the Service till after the Affair of the Birth was over.

My Lords, the next Evidence on the Side of the Plaintiff is *Mary Doyle*, and she is pitch'd upon to usher in this Farce, and my Lords, I cannot call this Affair by any other Name. She was but three Months in the Family, a Chamber-maid. Strange! My Lords, that this Evidence should happen to be so very lucky, she was not in the Family before, and never in Lady *Altham's* Chamber till the Time of the pretended Birth, and then that no other Persons were there besides herself, *Elinor Murphy*, the Midwife and Mrs. *Butler of Ross*, and that about an Hour after she says Mrs. *Heath* was there. This, My Lords, is a Transaction that took up about three or four Months and that no Person should know it, besides the Witness and her Con-

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federates ; and a Child born to so large an Estate and so great Honour and yet no-body besides know or hear of it. This is an Affair ushered in as transacted twenty-eight or twenty-nine Years ago, by very mean People, by *Mary Doyle*, a Chamber-maid, and *Elinor Murphy*, a Landry-maid, ; for my Part I do not believe they were there at all, and from the meaness of their Offices in the Family they could not be employed about the pretended Birth.

But, my Lords and Gentlemen, I will now shew, that one of these Witness's is perjur'd even from her own Mouth, *Elinor Murphy* says, that *Mary Doyle* was in Lord *Altham*'s Service before she was, and then afterwards *Murphy* swears, that she was in the Service before *Mary Doyle*. Liars ought to have a good Memory.

My Lords, the Time of the Eclipse is very remarkable, *Murphy* swears she was then a Servant to *Mrs. Butler* in *Ross*, and that she was there on the 22d of *April* in the Year 1715, which is the Period the Plaintiff has fix'd for the Birth of the Child, and that on the next Day, the twenty-third, she left *Mrs. Butler*'s and went into the Service of Lord *Altham* at *Dunmeau*. In this Case *Murphy* must be perjured, for she swears she was at *Lady Altham*'s three Months before her Ladyship was brought to Bed, if so, my Lords, the Child must be born in *July* following.

But let us for once take a View of the whole Contrivance as it has been given in Evidence before your Lordships and the Jury, *Mary Doyle* swears, that Major *Fitz Gerald* was at Lord *Altham*'s at *Dunmeau*, and that the Major lay there one Night, after the Birth of the Child. Major *Fitz Gerald* swore, that he was at Lord *Altham*'s at *Dunmeau*, but says, that he did not lie there, but that he went to *Ross*, and says, that it was in the Month of *September* ; in this *Fitz Gerald* is very particular, swears, that he left his own House, that the Harvest was over, that he went to *Ross*, and the next Day he went to *Dunmeau* on an Invitation made him by Lord *Altham*, and that then the Child was produc'd to him, about twelve Hours after the Child was born, and that he gave the Nurse half a Guinea, when the Current Coin of this Kingdom was but Cobbs and Half-Cobbs. Surely, my Lords and Gentlemen, *Lady Altham* could not have a Child in *May* and another in *September* following. And, my Lords, I think, that Major *Fitz Gerald* from his Character and Appearance in the World ought to be credited before *Murphy* and *Doyle*. Or, it will follow, that if *Murphy* and *Doyle* be credited, that their Evidence should be regarded by the Court what *Fitz Gerald* has said must be false, he must have sworn a

Lye.

Lye. Indeed, I must confess, that I am inclined to credit *Fitz Gerald* for the following Reasons; first, that he is a Man of Character and Reputation in the World, one who fills a considerable Post, and has the Appearance of a Gentleman and Man of Honour. And secondly, from what happen'd to him about this Time, his being attack'd by Robbers, and his shooting of a Horse. Therefore I presume, my Lords, what from the several Contradictions in the Behalf of the Lessor of the Plaintiff, and the apparent Badness of this Cause, the Plaintiff is under an absolute Necessity to intitle him to a Verdict of giving a more clear, credible and distinct Account of his Birth. And it is observable, my Lords, to what Streights in Regard to Evidence the Plaintiff has been drove, insomuch that not one Freeholder of ten Pounds a Year has been examined on his Behalf, tho' *Dunmeau* was so very near *Ross*, a Place of great Business, the Estate of the Plaintiff's pretended Father the late Lord *Altham*, and this is even attended with another Circumstance, that the Birth of the Plaintiff was not register'd in the Parish Registry where he is pretended to have been born.

My Lords and Gentlemen, what I shall take Notice of next is the appointing of a Nurse for the Child. This was one *Joan Landy*, as is pretended, and she was appointed Nurse about five Weeks after the Birth, and the Child was with her fifteen Months. The Name of *Joan Landy* was given into the Defendant's Council as one of the Witnesses in this Cause, and yet through the whole Course of this Trial she has not been produced and examined, tho' the Gentlemen of the other Side have promised to examine her from Day to Day; but being press'd to produce her by Us on the Side of the Defendant, they have form'd an Excuse, and say, that she is a sickly and weak Woman. And yet, my Lords, if I am rightly informed, she is now in *Dublin*, and perhaps in Court too. But, my Lords, nothing is more certain than this, That if what has been advanc'd concerning the nursing of the Child be Truth, the Plaintiff would undoubtedly have produc'd her, and then we should have reaped the Advantage of her Evidence, for *Landy* must know whether she had a Bastard by Lord *Altham*, or whether she nursed any Child for Lord *Altham*, and thus she would have supported the Truth, if any Truth was in it; but this whole Matter is all Fiction and Deceit.

My Lords, *Joan Landy* being a Weak Woman can be no Reason why the Plaintiff did not produce her, unless the Story be made and is fictitious, because a Person how weak so ever may speak the Truth, *Joan Landy* had been longer in the Family and was better acquainted with the Affairs of it than either

Murphy

Murphy or *Doyle*, and therefore the Plaintiff may be suspected of Partiality and Contrivance, in not producing an Evidence so material, and whose Name was inserted among the List of Evidences he gave our Attorney, as Persons to be examined on his Behalf.

My Lords, before I leave this Point, I must beg leave to observe that *Mary Doyle* swore, that *Joan Landy*, at the Time she became Nurse to the pretended Child was married to one *Mac Cormick*, and that *Landy* and her Husband lived then on the Lands of *Dunmeau* before the Plaintiff was born. Now all this, my Lords, is contradicted by others of the Plaintiff's Witnesses who have sworn, that *Landy* was not married till after the Birth of Lord *Altham*'s supposed Son and Heir, and not till after Lord *Altham* himself had left *Dunmeau*. That *Joan Landy* was with Child may be true, otherwise she could not be a Nurse; and she was not married, and her Child must be a Year older than the Child pretended to be Lady *Altham*'s.

Now considering the Character of *Joan Landy*, that she was a mean, loose and unsound Woman, one greatly addicted to Lust, it is highly improbable, I might say it is a Thing impossible, that Lady *Altham* should put her Son and Heir under the Care of *Joan Landy*, one, if I may believe my Instructions, who constantly and frequently admitted to her Embraces mean Men, whereby she might contract Disorders, and bring Ruin and Destruction on the Child. Besides my Lords, it has been proved, that Lady *Altham* turned *Landy* out of her House, it being reported, that Lord *Altham* had gotten her with Child. Is it to be imagined, that this very Woman, so distasteful to Lady *Altham* should afterwards be pitched upon by her Ladyship as Nurse for her Son and Heir. Again, my Lords, is it possible to think, that Lord *Altham* who never had a Child before, born of his Lady, nor Lord *Anglesea* had none, nor likely to have any, that this only Child, born to great Honour and immense Estates should be sent from home, trusted to the Care of so worthless a Creature as *Joan Landy* appears to be, and sent to live in a poor despicable Cabbin to lie upon Straw. No, my Lords, had Lord *Altham* had a legitimate Son, the Child would have been kept at home, where he was born, and Nurses and Attendants provided for him in Lord *Altham*'s House; he would have been under the Care and Inspection of his Lady Mother, and my Lord *Altham*, who was desirous of an Heir, must be supposed to be so fond of it, as not to trust the Child out of his Sight; but in order to cram his Fiction upon us for Truth, *Murphy*, my Lords, by her Evidence, decks and adorns this Cabbin, white-washes it and puts Furniture into it fit for
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the Reception, as she thought, of the Child; she puts the Child to *Joan Landy* so young as five Weeks, soon after the Christning, to one who was turn'd away by *Lady Altham*, one who was a Kitchen Wench, and common to Footmen and all Comers. How improbable all this is, I shall leave to the Court; but I must observe, that other Witnesses swear, that Application was made by one *Furlong* to Lord and Lady *Altham*, in order to procure the nursing of the Child for this *Furlong's* Wife three Weeks before the Birth of the Child, and though this was an honest Man and Woman, *Furlong* was refused, and *Joan Landy*, though of so abominable a Character, was made Nurse to Lord and Lady *Altham's* Son and Heir. What a Stock of Credulity is requisite to swallow these Absurdities, and Contradictions!

My Lords, If upon the Evidence it had appear'd, that Lord *Altham's* House at *Dunmeau* was too small to receive a Child and proper Attendance for nursing it, or that there was already a great Number of small Children therein, it would have been a Reason, tho' a trifling one, that the Plaintiff should have been put out to Nurse, but then Discretion would have dictated that the Choice for the Care of the Child should have fallen on *Furlong* and not *Landy* for the Reasons already alledged. But, my Lords, this was not the Case, the Lord *Altham's* House was large, there was at this Time no Child at all in it, Room sufficient, and a great Number of Servants to attend.

In order to support what the Gentlemen on the other Side of the Question call the Probability of their Pretensions, they have produced Evidences to swear, that great Rejoicings and Bonfires were made on this Occasion, and that there was a great Christning, when in Reality there was no such Thing. If any Rejoicings were made nobody but the Evidences knew or ever heard of it, if Bonfires were made they were made in Secret and concealed. Such Absurdities is this whole Affair clogg'd with! If the Bonfire was made in the Grove adjoining to Lord *Altham's* House it must have set the Grove a Fire, if out of the Grove, in both Cases the Neighbours must have seen it. And from these Circumstances and Improbabilities it plainly appears that the Lessor of the Plaintiff is a made Story.

My Lords and Gentlemen of the Jury, I must now beg leave to make some Remarks and to shew, that the Proofs on the Part of the Plaintiff as to the Credility, bears no Proportion to that on the Part of my Client the Defendant, the Earl of *Anglesea*. And here I shall plainly shew, that if a Child begotten by Lord *Altham* was about the Time pretended, born, it it must be the Son of *Joan Landy*, and not of Lady *Altham*.

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My Lords, as the Birth of the Plaintiff is made the Foundation of this extraordinary Case, it will be necessary for me to consider the Proofs given on the Part of the Defendant. And first I shall consider, that of Mrs. *Heath*, who was Lady *Altham*'s Waiting-woman, and attended her Ladyship many Years, even to the Time of Lady *Altham*'s Death, and who must have known of the Birth of the Plaintiff, if such Birth had happen'd, and she positively swears, that Lady *Altham* had no Child whilst she was in her Ladyship's Service, and further says, that she never heard that Lady *Altham* ever had a Child. Says, she came over with Lady *Altham* in the Year 1713, that she went from *Dublin* down into the Country with her Ladyship, and remained there with her Ladyship till Summer 1715; so that Lady *Altham* came to *Dublin* and staid there a Year and an half, and that it was about February 1716; ays, she was not absent from Lady *Altham*'s Service but one Week, and that was about Christmas 1715; so that Lady *Altham* could not have a Child, neither could she have miscarried without the Knowledge of Mrs. *Heath*, if any such Thing had been. This Evidence is supported, my Lords, by that of *Rolph*, and *Dwyer* Lord *Altham*'s Gentleman, both whom swear the same, and these Persons are more likely to speak Truth in a Thing (if it had happen'd) so remarkable than *Murphy* and *Doyle*.

My Lords, it is needless for me to repeat to your Lordships and the Gentlemen of the Jury the Evidence of the Persons of Note in the Country who have been examined on this Trial on Behalf of the Defendant, who have sworn, they never heard that Lady *Altham* had a Child, nor could she have any Child without their Knowledge, but shall appeal to your Lordships and the Gentlemen of the Jury's Notes in that Particular; but my Lords, there is Mr. *Palliser* the younger who was in the House, and who has been mention'd to be the unhappy Cause of the Separation, swears he knows not, nor did hear of any such Child, and *William Napper* swears he liv'd in *Ross* fifty Years, and was concerned in the Family, that he was employed on the Death of the late Lord *Altham* to make Leases of the *Ross* Estate, and that he did enter into Articles about the same, yet, that no one ever made any Objection thereto, or said Lord *Altham* had a Son, and Lady *Altham* lived in that Town for three Years after the Separation, and that it was not heard of there, tho' the late Lord *Anglesea* came into the Possession of that Estate, on the Death of Lord *Altham*. Besides, my Lords, it was very natural for Lady *Altham*, when she was discarded,
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and under great and weighty Afflictions, if she had a Son, that she would, on all Occasions, and in all Companies have made mention of him, and particularly from the Prospects she might have had of his succeeding to so large and noble an Estate, yet it is most certain that she never spoke to any Person whatsoever about any such Thing.

My Lords, as to *Walsh's* Evidence, on which great Strefs is laid, his Testimony is quite inconsistent with all the other Witnesses, as to the Time of the Day that Lady *Altham* went into *Ross*, on the Day of the Separation, he swearing that she came into Town in the Day Time, and in an one Horse Chair, and all the rest of the Evidence swear that she came in a Four-wheel Chair, and Mrs. *Heath* swears the Coachman had Directions to drive to Town, when it was near dark, and she swore that none of the Family at *Butler's* were at home but the Servants, and that they did not dine there, and if they did not dine there as *Walsh* said, then his Testimony is not to be believ'd. And, my Lords, the Proof on the Part of the Defendant is so full and true that it cannot be contradicted, but that on the Part of the Lessor of the Plaintiff is false and ridiculous.

The next dress-up Witness is *Joan Laffan* the Dry-nurse, and from her Evidence, it must be admitted, that it was the Child of *Joan Landy* that she dry-nursed, and not of Lady *Altham*, from the Consideration mentioned.

My Lords, *Laffan* appears to be a cunning sensible Witness, but yet she has contradicted herself; first, she said she came to live with Lady *Altham* in the Year 1716, and that she lived with Colonel *Dean* till about the Death of Queen *Ann*, and then recollecting, she says herself that in Summer 1715, she went to live with Lady *Altham*, and that the Child was three or four Months old, and then this Evidence is made to cook up the Credit of *Murphy* and *Doyle's* Evidence, and her Evidence cannot be reconciled, but by her coming into that Family in the Year 1716, and as Truth, must at some time or other come out, how could these Persons know, in what Manner a Nobleman's Son ought to be dressed, that she was Chambermaid for fifteen Months, the Child put under her Care three Months before the Separation, and that the Child was under her Care a Year and a half, and the Child was taken out of her Care by *Maegher* the Butler, and brought to *Kinna* in the County of *Kildare*. All which is a made Story known to no one Person living but herself, as I will plainly shew hereafter.

My Lords, from hence it plainly appears, that *Rolph's* Evidence is true, and that those of *Doyle* and *Murphy* are not true, but

but stand contradicted from their Appearance on the Table Face to Face, and there contradicting one another. My Lords, *Rolph's* quitting the Service, going into the Guards, and his Incampment, and beating the Gardiner, can't be denied.

My Lords, I say, that *Joan Laffan* and all the other Witnesses on that Side the Question, contradicted one the other, for if what *Joan Laffan* says is true, the Child must be put into her Care in *August 1716*, she having recollected that she came to live at *Dunmeau* in *August 1715*, and she swears that the Child was in her Care for a Year and a half, then her Care must cease of him in *July* or *August 1717*, and Lord *Altham* did not go to live at *Kinna* till *1718*, so that there is a Year not accounted for, but if you suppose Lord *Altham* went to *Kinna* the Beginning of the Year *1718*, and the Child went there, then there is but a few Months, but to suppose to the contrary, I must take it at the latter End of the Year *1718*, but, my Lords, admit she came to live at *Dunmeau* in *1715*, then she swears true to answer to the Year *1718*, but then, my Lords, it will not answer the Business of *Laffan's* dry nursing the Child before the Separation.

My Lords, it is admitted by us that Lord *Altham* did take the Child of *Joan Landy* into the House, and took Care of him, yet God forbid such a Child, notwithstanding what the Father might say of such a Son, yet he ought not to be usher'd in as an Heir to a Family, let his Keeping be ever so grand or Sump-
tuous, he being got out of Wedlock and by another Person. The Degrees of Kindness shewn to the Child every where, my Lords, can't make him legitimate, tho' the Evidence shews that Lord *Altham* wished that he was legitimate, to spite his Brother. My Lords, the introducing a Child as his lawful Son by his lawful Wife, is such a Method of Speech, that surely can't be believed, such a Method being unusual, uncommon, and therefore suspicious. What *Misset* and several other Persons who have spoke as to the general Report of the Legitimacy of the Plaintiff, nor, my Lords, what Col. *Piggot* has said relating thereto, cannot, or ought not, to be given in Charge to the Jury.

My Lords, the Witness on behalf of the Defendant, are Persons of as much Credit and Fortune, as those of the Side of the Lessor of the Plaintiff, and farther, my Lords, the Lord *Altham* declared, that as he had no Child, he did not care what the Devil became of the *Anglesea* Estate, and this is so like the Character of the late Lord *Altham*, that every Body must believe it, he having sold his own Estate, and the Reversion of the *Altham* Estate.

My Lords, I have now traced the Evidence on both Sides till they have brought the supposed Plaintiff into *Proper-Lane*, in this City.

The two Witnesses for the Plaintiff, *John Byrne* and *Thomas Byrne*, contradict one another, the Father *John* living in the Country, and *Thomas* his Son taking Care of the Brewery here in Town. *Thomas Byrne* swears that in September 1724 he came to him in a mean Condition, and that he was lurking about and living with him for six Weeks.

My Lords, his boarding at Mrs. *Cooper's*, and going to School at *Dunn's* in *Warborough-Street*, and his being with *Dunn* in September 1724, and staying with him till after *Easter* following, plainly contradicts the Testimony of *Thomas Byrne*. *Dunn* said, he called him the young Lord *Altham* during that Time, and *Byrne* swears, that the Plaintiff was a Vagabond. But, my Lords, the subsequent Behaviour of Lord *Altham* plainly shews, that he was not his lawful Son, to thrust him out of Doors at the Age of seven or eight Years old, when he was not capable of offending so egregiously, is hardly to be conceived, by which Means his Lordship necessitated the Plaintiff to pilfer or starve. But on the contrary, my Lords, allowing the Boy to be a natural Son, Doubts might and would arise in the Mind of Lord *Altham* on the Suspicion of his Mother's being free with others, solves the Difficulty at once, and accounts for this Usage of Lord *Altham* towards the Plaintiff.

My Lords, *Arthur Lord Altham* was Tenant in Tail to the *Anglesea* Estate, and if he had a thousand Sons he could barr them by levying a Fine, and it would have been his Interest so to have done, because his Lordship could then make a better Title to any Purchaser, and could greatly enlarge his Estate, but if he died without a Son, the Earl of *Anglesea* was his Heir, and therefore the Estate certainly must be the worse to the Purchaser; on the other Hand, my Lords, if Lord *Altham* had had a lawful Son, this would have enabled his Lordship to have raised more Money by the Sale of the Reversion, because his Lordship being Tenant for Life, the having a Son would have gained his Lordship Esteem and Respect, and render'd him courted for Honours, the Honours and Estate being likely to continue in that Branch; besides the Chance of Lord *Altham's* outliving the Earl of *Anglesea*, and he having it in his Power when his Son came of Age to dispose of the whole Estate; but, my Lords, be the Law as it will in this Particular, it appears to have been the settled Opinion of the late Lord *Altham*, that his having a Son would be of infinite advantage to him, as appears by Mr. *Wall's* Testimony in that Point, his Lordship having taken the Advice of Council on that Head. Would not his Lordship then have taken the Boy into his Care, to impose on the

the Public that he might have sold the Estate for greater Gain, and have enlarged his Power, since from the Circumstance of the Lord *Altham's* Necessities he was oblig'd to do it, yet, my Lords, this not being done in my humble Opinion plainly shews the contrary.

My Lords, there is another great Circumstance in this Case, which speaks itself, Lady *Altham* from the Year 1719 to the Year 1724 remains in this City, never enquired for her Son or even ever mentioned his Name to any Person whatsoever, except to Mrs. *Hodges*, who is better known to some of the Gentlemen on the other Side than she is to me; nay, even in *Cross-Lane* Lady *Altham* never acquainted any Person there that she had a Son, and from what Mrs. *Hodges* says, that she never saw her Ladyship but once, yet she told her she had a Son, but never said any such Thing to Alderman *King*, tho' she lodged in his House and dieted there for several Months, and talked to him of her Affairs, and, my Lords, Alderman *King* gives a good Character of Mrs. *Heath* as being a well behaved Woman, and from her Conduct here in Court that Witness deserves Credit, Mrs. *Hodges* does not speak the Truth, nor is she to be believed; besides, my Lords, I shall go a little farther on this Head, and observe, that Lady *Altham* did not enquire after her Son, not even after the Death of Lord *Altham* when she had received Notice of her Lord's Death, by a Letter from Mrs. *Mac Mullen* sent to Mrs. *Heath*, and which was dated the 10th of November 1727, which Letter Mrs. *Heath* communicated to her Lady, and her Ladyship read the Letter, after which her Ladyship lived two Years, and yet in that Time she never took any Notice of her Son, tho' she had a Sufficiency to support herself from the Duke of *Buckingham* during his Life, and after his Death from his Lady, and further Lady *Altham* continued in her perfect Senses to the Time of her Death, yet never so much as mentioned her Son.

My Lords, I am likewise thoroughly perswaded, that if the Circumstances which the Council on the other Side dwell upon, this Transaction and the Trial of the Plaintiff for the Murder, were out of Question; the Lessor of the Plaintiff Mr. *Annesley* would have been hooted out of Court for the Attempt, but, my Lords, from these Circumstances it appears, that those are but bear Suspicions, and ought not to have any Influence in the Determination of the Case now before the Court and the Jury.

My Lords, the first is the Attempt made before the Transportation, and the second the Attempt of Mr. *Purcel* a Butcher to do an Act of Humanity, and this Act of Humanity is usher'd in by *Domenick Farrel*, who I will shew is not to be credited, for in the first Place, he swore that in the Year 1718 he saw the
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Child at *Dunmeau* with Lady *Altham*, which is not true, from what all the other Witnesses have sworn, and that he went to live at *Cork* eleven Years next *Christmas*; and that the Child was a Year and a half at *Purcel's*, which is false; so that from thence by *Purcel's* Evidence, *Purcel* is not to be believed, and, my Lords, from *Purcel's* Evidence, his not taking any Care of the Child, and of the Child's being picked up, sometimes by one and sometimes by another, and calling *Purcel's* Wife Mistress plainly shews what *Purcel* thought the Boy to be, and besides *Purcel* says, the Boy went from him in *February*, so that he was a Wanderer, a Stroller and a Black-guard, without Shoes or Stockings.

My Lords, the Account of the Transportation is uncommon, being in the Noon Day, and the Plaintiff carried by the Stall of *Purcel* (who was his best and only Friend before) and a great Mob, yet that no Notice should be taken of him. Can any one believe, that if the Defendant the Earl of *Anglesea* had such a wicked Design, he would do it at Noon-day, when it could have been done, without any Hazard otherwise, and in this Point *Byrne* the Constable contradicts himself, and so does *Smith* the Servant. The next Step taken to shew the Transportation, my Lords, is the Books of *Stephenson* the Merchant, and the Books of the *Tholsel*, but my Lords they are nothing nor can they be any Evidence in this Case. For it appears from *Mr. Cormick's* Evidence that all Persons were taken in, and went as Servants on their own Account, and the Name of one *James Annesley* is entered in the Merchant's Book, and in the *Tholsel* Book the Name of *James Hennefley*, and from the Expression of the Word it may be one and the same, and there being no Entry in *Stephenson's* Book of the Name of *Hennefley*, and from the Sound the Probability is, that they are one and the same Person, and from the Life the Boy had led, and wandering about it is likely he might have transported himself.

The next is, my Lords, the Prosecution for the Murder. In which, my Lords, *Mr. Giffard* is the single Witness, and who appears to have been Attorney for many Years for the Defendant the Earl of *Anglesea*, his appearing voluntarily, and out of the Reach of the Process of this Court to compel his Appearance, and to discover any thing that he received from his Client in Trust and Confidence, and from the Suits commenced between him and the Earl of *Anglesea*, *Giffard* must have a Bias on his Mind, and his Evidence ought not to be taken as true, and the Defendant's speaking to the Witness in the Manner he has declared, if it was true, surely the Earl of *Anglesea* would not fall out with him, for two or three hundred Pounds Bill of Costs, when his Lordship knew that the Witness at any Time could discover against him,

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My Lords, the filing a Bill against Mrs. *Heath*, the Proffer of a Lieutenancy to *Rolph*, plainly shews that no Art or Contrivance, has been omitted to throw Dirt at the Defendant in this Case, and take away his Evidence from him. My Lords, the Earl of *Anglesea* might be angry, and express his Resentment in Anger, (when he resented the Prosecution of the several Suits he was involved in on all Sides) to make a Proposal of taking a Sum of Money to go and live in *France* to be eased from such Suits, yet, that was in Heat and Passion, and without any Intention of his ever so doing, and shall this be credited barely from the Mouth of one Witness, *Giffard* the Attorney, who appears to be prejudiced to the Defendant.

My Lords, I have taken up so much of your Lordships Time and the Gentlemen of the Jury in speaking to the Evidence, that I shall conclude, by mentioning that a President of this Kind may and will be destructive to every Gentleman and his Family, if he should be foolish enough to have a Child by any common Woman, and that after his Death, his Bastard should come into the Hands of an artful Set of Men, who should set him up to destroy the right Heir of the Family, by such Evidence as is dressed up by the Lessor of the Plaintiff. The Gentlemen of the Jury by giving a Verdict against the Plaintiff, will deter Adventurers and other Persons using such Practices and Measures for the future, and on the whole I presume the Jury will give a Verdict for the Defendant.

N. B. *The foregoing Argument of the Prime Serjeant lasted four Hours and an half.*

Mr. *Sollicitor General* for the Defendant, the Earl of *Anglesea*.

My Lords, Mr. Prime Serjeant has spoke so fully and so clearly on the Evidence on both Sides, that I shall presume only to trouble your Lordships and the Jury with making some Observations on the Inconsistency and Absurdity of the Evidence given on the Part and Behalf of the Lessor of the Plaintiff. And the first is, my Lords, and you Gentlemen of the Jury, as to the first Miscarriage, when the Affair of the *China Saucers* happened, and which is said or supposed to be the Occasion of that Miscarriage.

My Lords, it seems, that Lord *Altham* was angry that his Servants had brought to the Table certain Saucers at a Time when Lady *Altham* was at Table, therefore he threw the same at the Butler, but let it be observed, that his Lordship did not throw them, or did he so much as attempt to throw them at his Lady, and it does not appear from the Evidence, nor from the Nature of this Affair, that there was Cause of Quarrel between the Lord and Lady *Altham*, therefore, my Lords, I presume, the throwing of the Saucers at the Butler was not the Occasion of the first Miscarriage.

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The next Miscarriage my Lords, is in the Month of *July* following, and this was in *Dublin*, the Account given of that Accident is astonishing, and so flagrant that the bare Mention of it is sufficient to remind the Jury of its Absurdity.

Next comes the Birth of the Plaintiff, and where came this Event to pass? why it seems, this happen'd at *Dunmeau*, in the County of *Wexford*, at the House of *Arthur* late Lord *Altham*, upon the Estate of that Family, and yet none of the Family either knew or so much as ever heard of it, and since, my Lords, it appears that in the Year 1715 the Earl of *Anglesea* was so infirm and afflicted with the Gout that his Life was despair'd of even by Lord *Altham* himself. It likewise appears, that Lord *Altham* offered a Reward to the first Person that brought him the News of the Earl's Death. The Earl was resident in that very Country, and incapable of getting Children, yet he never heard of Lady *Altham's* having a Child who was to be Heir of that Noble Family.

My Lords, from the Evidence of *Mary Doyle* and *Elinor Murphy* it is apparent, that they cou'd not possibly be at *Dunmeau* at the Time of the supposed Birth, for they say they did not know *Rolph* who was Butler at that Time, and further they are not to be believed in what they have sworn, for they swore that *Joan Landy* was and was not married at that Time, for *Doyle* swears *Joan Landy* was married to Mr. *Cormick*, and the Child was to be nursed at Mr. *Cormick's*, and *Murphy* swears *Joan Landy* was not married, and more especially about the great Eclipse, and as to her being at *Ros* at that Time.

My Lords, As to the Child, nobody ever saw it but *Green* a Labourer who work'd in Lord *Altham's* Garden, and he forsooth saw the Child in the Lady's Arms, tho' none of the Domesticks in the Lord *Altham's* House ever did.

My Lords, *Brooks* the Chirurgeon's Testimony is extraordinary, he was sent for in a Hurry, came in a Hurry, and bled the Lady at a Time when no Person in that Condition is bled, and that when it was duskish, no Candle was light in the Room where Lady *Altham* was in Bed, that he let her Blood in a Pewter Plate, and about an Hour after a Child was born, who is to be Earl in *England*, Earl in *Ireland*, a Vicount, and have an Estate of 30,000 *l.* a Year, and yet *Sutton*, who was the most known and eminent Chirurgeon, who had lived in the House, and was then at *Ros* within a few Miles of the Place, and it seems *Sutton* was not sent for.

The next Evidence on the Part of the Plaintiff, my Lords, is *Turner*, he swears, that he knows none of Lord *Altham's* Family, and yet says, that he was at *Dunmeau* for two Months together; and says that he saw Lady *Altham*, and swears she had a Child; but my Lords, he is quite wrong, for at the
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time he mentions, which is in *August 1715*, both Lord and Lady *Altham* were in *Dublin*.

My Lords, Alderman *Barnes's* Testimony is inconsistent with itself, and can it otherwise be when by Reason of his great Age his Memory has fail'd him, *Barnes* says he went to *Dunmeau* in *May*, and heard at *Ross* and was told there that Lady *Altham* had a Child, yet went to visit her Ladyship at *Dunmeau*, where he saw Lady *Altham*, but never enquired after the Child.

The next Witness, my Lords, is *Brown*, a Servant of Mr. *Anthony Cliff*, one of the Godfathers. This Witness was so little acquainted with Lord *Altham's* House that he did not know the Situation of it, was quite ignorant of the Company that were at the Christning except the Godfathers and Godmothers, says that he dined in the great Hall, which he described, but, my Lords, there is no such Hall in the House at *Dunmeau*. These, my Lords, are such of the Plaintiff's Witnesses, as I apprehend were not particularly taken Notice of by Mr. Prime Serjeant.

My Lords, as to Mr. *Colclough's* Evidence, he was on the Grand Jury, and so engaged, that he did not take Notice of the Lady *Altham*, yet from the Evidence he gave she might escape his Sight.

My Lords, *Higginson's* Evidence is very doubtful and uncertain, he swore he never spoke to Lady *Altham* before, yet she called to him and called for Wine, he drank her Health and safe Delivery, and he swears particularly to *Easter Monday*, yet the Plaintiff never thought of this Witness, nor was his Name given in to the Defendant's Attorney at the Beginning of the Trial, and here he comes in at the latter End thereof, without any Knowledge of the Defendant; but, my Lords, the great Blessings of Trials by Juries is, that the Witnesses are produced in Court, so that the Jury may judge of the Persons and their Appearances, and from thence the Probability of the Truth of their Evidence.

The next Witness is Mr. *Hussy*, he was brought to contradict the Testimony of Mrs. *Heath*, this Witness came to *Ireland*, was found out at *Kildare*, when nobody knew he was in this Kingdom.

My Lords, it's strange considering the Circumstances of this Case and the Condition of the Family, that after Lord and Lady *Altham's* Reconciliation, that if a Child was born, no Enquiry should ever be made by any of the Tenants, or other Persons, after him, and that none of the Neighbours who visited Lord *Altham*, as Colonel *Pailifer*, *Thomas Ross*, *Aaron Lambert*, Colonel *Loftus*, Mrs. *Giffard* or Mr. *Elms* should not know any thing of the Child.

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My Lords and Gentlemen of the Jury, upon the Supposition that the Plaintiff is Son and Heir to Lord *Altham*, what a Brute, I had almost said, must Lady *Altham* be to put her Son, her only Son and Child, but five Weeks old, to nurse to a Whore, a mean beggarly Woman, and one who had been a Whore to her Lord. It is plain, that the Plaintiff was not her Son: He might, we allow, be the Bastard Son of Lord *Altham* by *Joan Landy*, and for this Reason Lady *Altham* would neither suffer *Joan Landy* to stay in her Service at *Dunmeau* nor suffer young *Landy* the Plaintiff, tho' the Bastard of her Husband, to be in the House. And that the Plaintiff was not the Son of Lady *Altham* is evident from her Ladyship's Conduct and Behaviour, for her Ladyship was so angry at the Dishonour her Lord had done her, that her Ladyship would not let *Landy* come near the House. The next Thing I would observe is, the wise Choise, the Forgers of this Birth have made in Relation to Godfathers and Godmothers, they have pitched upon Persons who have all been long since dead; but the Forgery in my Opinion detects itself, Mr. *Anthony Colclough* one of the Godfathers, was a Roman Catholick, and Papists by the Laws of this Kingdom are disqualified and cannot become Sureties for Protestant Children when baptiz'd. Mr. *Cliff* was the other, a Person in very poor and mean Circumstances. Had this Birth been no Forgery, no Contrivance of some artful Men in order to deprive the Defendant of his undoubted Right to the *Anglesea* Estate, and had the Plaintiff been the real Son of Lord *Altham*, the Godfathers undoubtedly would have been the Right Honourable Lord *Haversham*, his Grace the Duke of *Buckingham*, and the Godmother her Grace the Duchess of *Buckingham*; who were all then living, as also the Earl of *Anglesea*; and were not these more proper for Sponsors than those the Plaintiff has set up?

My Lords, *Arthur* late Lord *Altham* being in great Want of Money, for his Lordship was extravagant, proposed to his Brother the Earl of *Anglesea* the selling his Estate. As the Consent of his Brother was necessary in this Case, so this often caused great Conteits, and Fallings-out, Lord *Altham* was for mortgaging and selling his Estate to supply his Extravagancies, but the Defendant was careful in this Respect, tho' sometimes he would join with his Brother the Lord *Altham*, and sell Part of the *Altham* Estate. Now, my Lords, if Lord *Altham* had a Son, that Son would have been an Obstacle and would have prevented both the Lord and his Brother from selling any Part of the *Altham* Estate; nay, my Lords, what Person in their Senses would be a Purchaser under such Circumstances.

My Lords, let us now see, what became of the *Altham* Estate after the Death of *Arthur* late Lord *Altham*; nothing descended to the Defendant but the meer Title, for the *Altham* Estate

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Estate devolv'd to the Earl of *Anglesea*. How very strange, my Lords and Gentlemen, is it, that tho' at the Death of Lord *Altham*, the Duke of *Buckingham*, his Dutcheſs, and Lord *Anglesea* were then all living, and then in this City, that they should take no Care of him, have no Regard to his Education. Suppose it true, my Lords, that the Plaintiff at the Funeral of Lord *Altham* did give out, that he was the Son and Heir of *Arthur* late Lord *Altham*; under the Circumstances that have been mention'd, would any Body then have credited it? No, for all that appears to the contrary, the Plaintiff was a Vagabond, and if the Defendant had any Hand in transporting him, it was to serve his Country; for if the Plaintiff was no Impostor, the Defendant by such a Contrivance could not have reap'd any Advantage, the Estate, as I said before, going to Lord *Anglesea*, who survived Lord *Altham*, and was not at all beloved in his Family. They would have been glad that Lord *Altham* had a Son if so it had happen'd, that Lord *Anglesea* might not have succeeded to the *Altham* Estate. My Lords, this Thing is worthy the Consideration of the Jury, what Temptation could the Defendant have to contrive the transporting of the Plaintiff, when he could be no Gainer by it, for Lord *Anglesea* succeeded Lord *Altham* in the Estate. The whole Story is romantic, fictitious and ridiculous on the Part of the Plaintiff.

My Lords, the Behaviour of Mr. *Tighe* towards the Plaintiff, plainly shews, that *Tighe* did not believe *Annesley* to be the legitimate Son of *Arthur* late Lord *Altham*. When *Tighe* took the Plaintiff into his Service he cloath'd him in a Livery, and he served *Tighe* in the Condition of a Footman. Lord *Altham* was then dead, and yet *Tighe* the Plaintiff's Master never mention'd, or made any Stir, about the Injuries his honest Servant suffered from the Deprivation of his Right (as is pretended) by the Defendant. Certainly had *Tighe* credited the Plaintiff, had he believed, I mean, that his Footman was a legitimate Son of Lord *Altham*'s, common Humanity and the least Spark of Generosity would have led a Gentleman of Mr. *Tighe*'s Character to have used him in another Manner than by making the Plaintiff his Footman. But as *Tighe*, my Lords, knew the Character of Lord *Altham* and had heard that his Lordship had a Bastard Son, he imagined the Plaintiff to be illegitimate, as he really is, and so used him accordingly.

As this, my Lords, is the greatest, most weighty and considerable Cause that ever came before a Jury, and that probably ever will, what a Satisfaction must it be to every one concerned, I am sure it is the greatest to me, that this Cause now lies before a Jury of such eminent Persons as at this Time fill and grace, as I may say, the Jury-Box; Justice must be the Result of your Lordships and the worthy Jurors, and there-

fore I doubt not but a Verdict will be found for the Defendant.

Mr. Recorder of Dublin for the Defendant. My Lords, and Gentlemen of the Jury, the single Point before the Court is, whether Lady *Altham* had a Son; if she had, whether the Lessor of the Plaintiff is that Person?

My Lords, during the Progress of the whole Tryal, it has not appeared, that any one Act of Kindness was shewn to Lady *Altham* by her Lord from the time of their Reconciliation, nor has it been proved that the bare throwing of the Saucers in the manner as mentioned on the Trial, could make her miscarry.

As to the Miscarriage in *Dublin*, Mrs. *Blake* visited Lady *Altham* who was a Relation in the Family, yet her Ladyship never told Mrs. *Blake* she had miscarried. And as to what Mrs. *Annesley* swears that is nothing but her Imagination about her Brother's drinking Lord *Altham's* Son's Health.

Mrs. *Scott*, in her Evidence contradicts *Catharine Mac Cormick*, for *Scott* told her, she never knew Lady *Altham* had a Child; but, my Lords, the Gentlemen for the Plaintiff took these Steps in order to shew that there was a Miscarriage, and if the Reasons above are not well-grounded, but untrue, all the rest of the Plaintiff's Proofs must fall to the Ground.

My Lords, as to Mrs. *Sheil* the Midwife, surely, my Lords, is it to be conceived or believed, that if Lady *Altham* was in such a Condition, that care would not have been taken to have the Midwife in the House, not to have to send to *Ros* for her at the Moment of the Lady's Travail; there was no Nurse provided, nor one in the House able to assist Lady *Altham* but Mrs. *Heath*, that no one was at the Birth but the Chambermaid and Laundry-maid, that the Midwife should be dropp'd at the Gate near the Yard, and not know upon what Occasion, or to whom she was sent for. These are surprizing and incredible Circumstances!

Brookes's Testimony, my Lords, is astonishing, he swears, that he has been a Chirurgeon Forty-seven Years, that he had no Directions for bleeding the Person, nor knows not what Quantity of Blood he had taken from Lady *Altham*, and says, he had not one Penny paid him for it. *Brookes*, my Lords, on his Cross-Examination says, by his own Confession, that he was a Practising Attorney when he was scarce four Years old. By which the Court may see, what Regard is to be paid to his Evidence.

Turner, my Lords, is a very bad Witness, for he places the great Eclipse Nine Months after it had happen'd, and from his manifest faltering in his Evidence, the Jury can pay no Regard to him.

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What *Joan Laffan* says, is all false, for *Wood* said he went to *Dunmeau* to see the Child above twelve times, and swears he gave Messages to *Rolph*, and another Time Messages to *Joan Laffan*, tho' *Rolph* swears he never saw *Laffan*, and *Laffan* swore she never saw *Rolph*.

The Affizes of *Wexford*, my Lords, is very material, for *Mrs. Giffard*, *Mr. John Ker*, and the other Servants that were there, swore, they were there in the Spring Affizes in the Year 1715, and they prove that *Lady Altham* was there, and though *Mr. Colclough* did not see them, that is nothing, for *Higginson's* Testimony proves that he paid 20 l. to *Lord Altham* at *Wexford*, that very time, and by Consequence the *Lady Altham* must be there, and could not be brought to bed in *May* following; for wou'd *Lord Altham* let his *Lady* go to such a Place in that Condition, besides *Lady Altham* was in the City of *Dublin* the 28th of *May*, being the Birth Day of *King George* the First.

My Lords, *Doyle* and *Murphy* contradict one another as to the Christning, *Doyle* says, it was in the Yellow Room, and *Murphy* says it was below Stairs in the Great Parlour.

As to *Higginson's* Testimony, my Lords this Witness only receiv'd the Rents of the *Nanny-water* Estate for *Lord Altham*, and not those of the *Ross* Estate. For he was Receiver to the *Earl of Anglesea*, and only receiv'd by Stealth for *Lord Altham*: And is it to be believ'd, or presum'd, that *Lady Altham* would come down two Pair of Stairs, and with a white Apron and white Handkerchief on to call for Wine, and that all this while the Witness should be on Horseback and not alight, and then he swears he saw her *Ladyship* big with Child. This has all the Marks of Forgery and Imposture.

My Lords, the Testimony of *O Neil* is a Scene of Iniquity thro' the whole, her going to *Lady Altham* at *Cross-Lane*, and telling her *Ladyship* of the Circumstances of her Child; if the Child had been her *Ladyship's*, wou'd not *Lady Altham* have taken that Opportunity of supporting her Son? for she could not suffer any more, because she was then separated from *Lord Altham*, her not mentioning at *Alderman King's* her Son, nay her never speaking of him to the Alderman; her going to *England* without her Son who was to be Heir of the Family; would she not have taken Care of him after the Death of his Father, when she was appointed Guardian to him when that would have greatly been her Interest; besides my Lords the *Duchess of Buckingham* was the Widow of *Earl James*, would she not have taken Care of such a Son? and from all these Circumstances it is contrary to Reason to imagine that the Plaintiff should be the real and legitimate Son of *Lord* and *Lady Altham*, and that no Regard, no Care of his Education, should be had towards him.

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As to the Transportation, my Lords, your Lordships will please to observe what Mr. *Cromie* swears that *Skellron* took down the Names of the several Persons that went aboard that Time in the Ship belonging to Mr. *Stephenson*, that the Clerk came aboard the Night or Day before the Ship set sail, and each Person aboard were called by their Names, they answer and pass by him, and *Annesley* being aboard he expressed his Name right, but the Master of the Ship might spell his Name wrong at the *Tholsel*, and, my Lords, if the Lessor of the Plaintiff Mr. *Annesley* was put on board after the Manner as is mentioned by the Witnesses examined to that Matter, would not Mr. *Annesley* then have complained of his being taken away by Force; since he was seen publicly aboard, yet he did not complain. All this is done with no other Design than only to throw Dirt on the Defendant. My Lords, the Application of Mr. *Kircher*, to *Rolph*, as knowing he was one of the Family, plainly shews that no Steps have been omitted by the Persons concerned for the Lessor of the Plaintiff to seek out that Evidence, in which they have evidently failed. Therefore I must submit to the Court and to the Consideration of the Jury, whether the Lessor of the Plaintiff must not positively prove himself the real Son of *Arthur* late Lord *Altham*.

My Lords, the Defendant the Earl of *Anglesea* is admitted to be lawful, and the several Remainder Men who are interested are all concerned, and their Rights are not contested. Will the Jury trust in such a Person as the Lessor of the Plaintiff the Honours and Estate of *Arthur* late Lord *Altham* on such slight and doubtful Evidence, and suffer all the Honours of that Noble Family to be totally destroyed, contrary to the Intention of the first Donor thereof?

My Lords, *Cavenagh's* Testimony is positive, and tho' he would not take on himself to swear to any positive Time, yet he shews what he swore to be true and ought to have Weight with the Jury in this Case. On the whole, my Lords, the Lessor of the Plaintiff Mr. *Annesley* ought to prove himself to be the legitimate Son and Heir of *Arthur* late Lord *Altham*, without any Doubt whatsoever, and untill he does that, the Gentlemen of the Jury will keep the Possession where it is, and more especially the remainder Men are now nearly concern'd, since the Defendant the Earl of *Anglesea* has parted with his Wife, there is no Prospect of having any Children to inherit the Estate, therefore I hope the Gentlemen of the Jury will give a Verdict for the Defendant.

Here the Jury by Consent of their Lordships were allowed some Refreshment in Court, before the Council of the Lessor of the Plaintiff began to speak to the Evidence on their Side the Question. And the Jury being refreshed for about half an Hour.

Court.

Court. Gentlemen of Council for the Lessor of the Plaintiff please to proceed.

Mr. Serjeant *Marshall*. My Lords and you Gentlemen of the Jury, I am in this Case of Council with Mr. *James Annesley*, and, my Lords, I believe, no Age can parallel the Scene of Iniquity and barbarity which has, for the Course of many Years, been shewn towards the Plaintiff, he was ill treated, kidnapp'd, transported, was a Slave for thirteen or fourteen Years, and after that the Time of his Slavery was out, then the Defendant contrived to indict him for Murder at the Sessions of Oyer and Terminer at the *Old Baily*, held for a Gaol-Delivery for the City of *London* and County of *Middlesex*. Here, my Lords, the Plaintiff was imprisoned for a considerable Time, was tried and acquitted. And, my Lords, if we were to enquire into the Characters of the principal Actors in the Opposition, and observe their Behaviour in Life, we should not at all wonder at it.

My Lords, the Gentlemen on the other Side at their first setting out, proposed to the Court and the Jury, that they would prove that the Plaintiff was willing to go abroad, that they would shew, that he was not kidnapp'd, that no Force, no Compulsion, no Violence of any Sort was used in order to force him to leave this Kingdom. But this they have not as much as attempted to prove, they have not produced one Witness to shew, that the Plaintiff was willing to go abroad. So that our Assertion stands good, that the Defendant the Earl of *Anglesea* did contrive to transport *James Annesley*, the Plaintiff in this Cause, to *America*, there to become a Slave, or otherwise to be exposed to the Dangers of the Sea, the Difference of Climates, &c. to put an End to a Life that stood in the Defendant's Way. But poor and despicable as the Plaintiff was, friendless, and at that Time, un-assisted by Human Aid, the Hand of Providence was with him, secured him from the Hazards of the Ocean, the Inclemencies of the various Climes, he past through, the severe and endless (for fourteen Years is a very long Time) Slavery he underwent, afforded him a Dawn of Freedom; procured his Enlargement; inclined one of the greatest Heroes this Age can boast of safely to conduct him to these Kingdoms; raised him Friends to stand by him when the Defendant fought his Life, and at last has brought him openly into Court before your Lordships and the worthy Jury, here to assert his undoubted Right, and plainly to shew to the World the Injuries he has sustain'd.

My Lords, the Plaintiff was very young when he was transported, a meer Boy, about twelve Years of Age, and then in no Capacity to assert his Right, he was poor, abandon'd by all, ragged and almost naked; the Defendant, the Earl of *Anglesea*, rich, honour'd with a fresh Accumulation of Grandeur and Honour,

nour, proud, imperious, avaritious, luxurious, cruel, inhuman and every Way qualified and inclined to Oppression. A Person of this Temper, could he bear that a Boy in such mean Circumstances, who had been, we own, greatly neglected by his Parents, should succeed to the *Anglesea* Estate, especially if any Pretence could be found (just or unjust) so to manage Matters as to disinherit him?

Your Lordships I hope will indulge me, whilst I lay before the Jury, the Manner and Method in which I apprehend this Affair happened. The Plaintiff I take for granted was born at *Dunmeau*, and was the Son of *Lady Altham* begotten by *Lord Altham*. Soon after the Plaintiff was born it was found inconvenient to keep the Child at home for several Reasons; first, because *Lord Altham* was a very cross and passionate Man. Secondly, because *Lady Altham* was a thin and sickly Woman. Thirdly, because several of the Gentry do put out their Children to nurse for the Good of them, Nurses being apt to drink and live too high in great Families. And fourthly, because it saves Expences, &c. for *Lord Altham* had not much Money to spare. In the Year 1714, *Joan Landy* then a Servant in the Family, some supposed she was married to a Sailor, one of the Witnesses swears his Name was *Cormick*, but others say, my *Lord Altham* and the Defendant with others got *Joan Landy* with Child. However this was, whether she was with Child by the Sailor her Husband, or by the Parties mention'd, on her leaving the Service, she returned to her Father's House a little Way from *Dunmeau*, and there lay in, some time before *Lady Altham* was brought to Bed. Her Ladyship at first imagin'd, that her Lord was the Father of *Joan Landy's* Child, but her Ladyship being convinc'd of the contrary, and being persuaded, that *Landy* had her Child by *Cormick* her Husband, puts her Son and Heir under her Care, for tho' one *Furlong's* Wife was proposed to her Ladyship, yet upon Enquiry *Landy's* Milk was found to be the best. But before the Child was sent thither *Lord Altham* had an Addition built to old *Landy's* House, had it white-wash'd, put a Bed into it, made a Fire-place, and put Furniture into it: And caused a Road to be made, for a Coach, to carry his Lady from *Dunmeau* thither, and so back again. The Plaintiff was at nurse here eighteen Months. Some time after this, *Lord* and *Lady Altham* parted on Account of *Thomas Palliser*. Her Ladyship was not in Circumstances (and she was sickly) to take a proper Care of the Child, and *Lord Altham* however took his Son home, and the Plaintiff was supposed by all to be his lawful Son, and he took Care of his Education, cloath'd him and put him to School. But so it happen'd, that *Lord Altham* became acquainted with one Miss *Gregory*, who became his Mistress. This Miss *Gregory* assumed the Title of
Lady

Lady *Altham*, and promised herself that if Lady *Altham* should die, Lord *Altham* would marry her. Upon this, she became an Enemy to the Plaintiff, and could not be easy whilst he was under the Care of Lord *Altham*. In short, she thrust the Boy out into the World when he was scarce eight Years old; gave out that he was a Bastard, that he was the Son of *Joan Landy*, the Boy became a Vagabond, and the Defendant willing to have it so, tho' he knew to the contrary, encouraged the Report, used the Plaintiff accordingly, and when Lord *Altham* was dead and buried, in a kidnapping Manner got him transported, and sent into *America*.

My Lords, it has plainly appeared on the Trial in this Cause, and from the Circumstances thereof, that the Plaintiff Mr. *Annesley* was transported, and did not return to *England* till the Year 1741, at which Time he asserted his Right to the *Anglesea* Estate; and, my Lords, it appears also that it was well known that the Lessor of the Plaintiff Mr. *Annesley* was in *America*.

My Lords, the Defendant has not produced one of the Family in favour of his Side of the Question, tho' he lives amongst them and is so well acquainted with them, but, my Lords, on behalf of the Lessor of the Plaintiff, Mrs. *Annesley* a Relation of the Family, swears positively, that it was well known in the Family that Lady *Altham* had a Son at the Time sworn, and who is the Plaintiff in this Cause.

My Lords, it is apparent from the Evidence of Mrs. *Heath*, that Mrs. *Giffard* and Mrs. *Lambert* did not visit Lady *Altham* after her Separation, and Mrs. *Pigott* who was of the best Family in the Neighbourhood, visited Lady *Altham* as her only and most intimate Acquaintance.

As to Mrs. *Cole's* Evidence, my Lords, it is true and plain, as to the Matter of the Miscarriage at *Dunmeau*, for she swears that the Saucers were flung in a Passion by Lord *Altham* near his Lady's Forehead, and she was taken ill immediately after. My Lords, Lady *Altham* was a Woman of fire, haughty and proud, would she not resent that Treatment, but sit tamely down, as Mrs. *Heath* would have it. And this the Defendant allows, that Lady *Altham* was haughty and proud.

My Lords, Mrs. *Cole's* Mother being called out of Bed, is a Circumstance Mrs. *Cole* might easily remember, and, as to her Age, I leave it to the Gentlemen of the Jury, whether a Girl of Thirteen is not old enough to know what a Miscarriage is?

My Lords, as to the second Miscarriage in *Dublin*, Mac *Cormick* said, it was only talked of, and was not a real Miscarriage, Mrs. *Heath* allows, that there was a Quarrel between Lord and Lady *Altham*, and Mac *Cormick* swears, that Lord *Altham* said, he would send for a Midwife, and theupon called for Mrs.

Lucas,

Lucas, a noted Midwife. *Mrs. Heath* said, that Lord *Altham* said, he would send for a Midwife to know if Lady *Altham* was with Child, and if she was not, he would turn her away, yet they lived together till *February 1716*, and the Plaintiff's Witnesses *Mrs. Cole* and *Briscoe*, were hindered from telling what their Mother had told them, it being, as was objected, hearsay Evidence, therefore it was determined by the Court, that it was no Evidence; yet from the Objection it ought to be concluded, and so the Jurors will be of Opinion when they come to consider it, that their Mother had told them that Lady *Altham* was with Child.

As to *Alice Bates*, my Lords, does it not appear from all the Witnesses produced by the Defendant, all the Intimacy they had with Lord *Altham*, and pray, why should he not, be as free with her by clapping her on the Shoulder, as mention'd by Mr. Prime Serjeant in his Argument?

My Lords, there were very few Neighbours in the Country who visited Lady *Altham* when she was brought to bed, except *Mrs. Buttler* her Intimate, to whom she flew for Refuge at the Time of the Separation, for Lord *Altham* did not keep Company with the best in the Country, for Col. *Loftus* says, he knew but little of him, and says, that he never visited him.

Redmonds was designed to be kept from giving Evidence in this Cause, by *Thomas Palliser* the Elder, and this was endeavoured because it was believed that his Testimony would greatly hurt the Defendant.

My Lords, the Witnesses indeed do vary in Point of Time in relation to the Great Eclipse, but this is pardonable at the Distance of twenty-eight Years, and so the Jury will be of Opinion, but as to the Matter of Fact there is no Variation among them. 'Tis true, the Gentlemen on the other Side on the Cross-Examination of the Plaintiff's Evidence have shewn their Ingenuity, and by their artful Method of interrogating they have sometimes puzzl'd and perplex'd them, but yet the Truth has remain'd entire, the Fact stands firm, and we have prov'd that Lady *Altham* was with Child, was brought to Bed of a Son, and that that Son is the present Plaintiff in this Cause. That Lady *Altham* had a Son is apparent from the Evidence of *Higginson*, whose Veracity and Character was never called in Question by any Gentleman in his Neighbourhood. He swears that Lady *Altham* was brought to Bed of a Son on the Nineteenth Day of *April* in the Year 1715. His Character was not impeach'd, I say, by the Defendant's Council, for when Colonel *Loftus* and Mr. *Colclough* were examined, no Questions were ask'd in relation to the Credit of this Depodent.

My Lords, the Lord Mount *Alexander*, Colonel *Piggot* and Alderman *Barnes*, they all swear, that it was the general Report,

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port, the common Belief, that Lady *Altham* had a Son; and when Colonel *Piggott* would have related to the Court, what he had heard his Mother say concerning her being Godmother to the Son of Lord *Altham*, the Defendant's Council objected to it as Hearsay Evidence, and the Court was pleased to admit the Objection. As to Major *Fitz-Gerald* it is plain, he swears positive as to the Matter of Fact, only he had forgot as to Point of Time, and that is no Wonder, my Lords, at the Distance of almost Thirty Years.

My Lords, As to *Joan Landy*'s not being examined by the Plaintiff's Council, which the Gentlemen on the other Side have laid great Strefs on, I will soon clear that Matter. My Lords we of Council for the Plaintiff did offer her to be examined to the Gentlemen of the other Side, but they refused it, and the Reason is plain why she was not examined, she had been tampered with, and upon Examination that would have come out, and it would have appeared who had tampered with her.

My Lords, *Rolph* and others swear that it was well known, that *Joan Landy* was with Child by Lord *Altham*, the Defendant and the Dog Boy! that she was three Months in the House after Lady *Altham* went into the Country, and that *Joan Landy* was brought to Bed in the Month of *April* following. Can it be supposed, my Lords, that Lord *Altham*, immediately after the Reconciliation with Lady, would keep a Woman six Months gone with Child, and so well known in the Country, as has been proved by the Defendant. No, it can't be believed by any Person from the Nature of the Thing itself.

The next Observation made by the Gentlemen on Behalf of the Defendant is, that it is improbable that the Child should be sent out to nurse. To which I answer, that noble People do frequently send out their Children to be nursed abroad, to prevent the Nurses living too high, and this is done for the Good of the Child. It is very well known, and we have a Precedent in this Town, that the Earl of *Kildare* sent the Lord *Offeley* out of his own House to be nursed to a little House over the Water.

As to the Meanness of the House the Child was nursed in, the three Witnesses examined for the Defendant in that Point all disagree about the same.

Elms says, there was a Partition of Sodds.

Rolph says, the same lay open, and the third that a Bush was for a Door.

My Lords, *Furlong*'s Application for the Nursing of the Son of Lady *Altham* was two or three Months before Lady *Altham* was brought to Bed, and his Wife's Milk was upon Examination disapprov'd of.

My Lords, I shall now proceed to make some Observations

on the Evidence given by the Defendant's Witnesses. And first, my Lords, the Defendant had it in his Power to produce the whole Country, as to the Reputation, but he has not done it; he has only produced the following Persons.

The first is Mrs. *Heath*, and the second is *Rolpb*. These contradict one another, but my Lords, they both agree in the same Words, that they were led by Curiosity to see the Child: The Child of whom? The Child of the Dog Boy, or whether it was Lord *Altham's*. When they saw the Child, as they say, it was naked, and Mrs. *Heath* says, she gave it a Cambrick Handkerchief.

My Lords, as to the Trial at *Wexford* Assizes, when certain Persons were tried for inlisting Men for the Pretender's Service, in Spring 1715, which Assizes, the Council on the Side of the Defendant have attempted to fix to the very Time that Lady *Altham* was delivered of the Plaintiff, and endeavour to persuade the Court and Jury that her Ladyship was at the Assizes, it is plainly a made Story, which will fully appear from what follows.

Mrs. *Giffard* in her Evidence names every Body that went with Lord and Lady *Altham* to *Wexford*.

Rolpb says the same, but Mrs. *Heath* adds to the Number Mrs. *Giffard's* Sister, which Mrs. *Giffard* had forgot.

Mrs. *Giffard* swore, that Mr. *Colclough* sat by Lady *Altham* most Part of the Trial of the Pretender's Men.

This is the Evidence the Defendant on his Behalf has given to prove that Lady *Altham* was at *Wexford* Assizes.

The Plaintiff's Evidence in Relation to this Point in Question, are; Mr. *Colclough*, he swears that he was Foreman of the Jury at that Assizes, and says, that no Lady sat by him, says, he knew Lady *Altham*, and positively affirms, that he did not see her Ladyship in Court, nor any where at *Wexford* during the Time of the Assizes.

Mr. *Ker*, he says that *Master's* Trial was on Monday and Tuesday, and in his Evidence he fixes the Day the Assizes began on, and says, that he did not see any Ladies there.

Higginson, my Lords, swears, that Lady *Altham* was at the Time of the Assizes at *Wexford*, at her own House at *Dunmeau*, and that he saw her Ladyship there.

Turner swears that he went with Lord *Altham* to the Assizes at *Wexford*, waited on his Lordship at the Time he was there, says, that Lady *Altham* was not there at that Time, but was at home at *Dunmeau*. But, my Lords, on the Behalf of the Defendant, one *Rolpb* was produc'd, and he swears that he was Lord *Altham's* Gentleman, that he went to the Assizes at *Wexford*, that he never saw his Lordship there, nor did he know where Lord *Altham* lodged in that Town.

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My Lords, the Defendant has produc'd four Evidences, *viz.* Mr. *Palliser* the Elder, Mr. *Aaron Lambert*, Mr. *Palliser* the Younger and Mr. *Elms*. All these Persons swear, that they visited Lady *Altham* once a Fortnight, and that her Ladyship could not be brought to Bed without their Knowledge, and if Lady *Altham* had had a Son they must know it, and must know her Son too, from the frequent Visits they made her Ladyship. Now, as to the Credit to be given to these Witnesses, Mr. *Palliser* the Elder seems to be a Man that has lost his Remembrance, for he did not know when he was in the Barony of *Forth*, or when in the *Great Island*. Mr. *Lambert* is in the very same Case, for he has even forgot the Day he was married on. And as to Mr. *Palliser* the Younger, his Testimony is quite rash and incredible, for he says, that he never told Lady *Altham* of her Lord's Intention to part with her, and that he gave his Lordship no Provocation to draw his Sword on him, to knock him down, and cut a Piece of his Ear off for a Remembrance of the Attempt he was then making on Lord *Altham's* Honour.

My Lords, the Plaintiff has proved that a Road was made to *Joan Landy's* Father's House, where the Child was nursed, and this is not contradicted by the Defendant's Witnesses; but then they on the Side of the Defendant give this Reason for making the Road, *viz.* for the Conveniency of going to Mrs. *Giffard's*. Now, my Lords, Mrs. *Giffard* swears she never went that Way.

Edward Lutwich's Evidence is, that he saw the Child at *Ross*, and that the Child was brought thither by Stealth, and that Lady *Altham* in *Dublin* mention'd her Child. And all the Circumstances of his Testimony (except that Part of the Child's being mention'd) is confirm'd by the Testimony of Mrs. *Heath*.

My Lords, Alderman *King's* Testimony that her Ladyship tho' very free in her Conversation, never once mentioned her having a Son, has no Weight in it, and as to Lady *Altham's* not taking Notice of her Child, it plainly appears, that she was confined to her Chamber, and knew nothing but what came from the Mouth of Mrs. *Heath*. Lady *Altham* left this Kingdom in *September 1724*, and my Lords it has been proved that the Lessor of the Plaintiff Mr. *Annesley* was in the Custody of Lord *Altham* till the Month of *August 1724*, and *Herd*, the Defendant's own Witness proved the same, and it is very probable that Lady *Altham* in that small Space of time could not hear of him; that the Lessor of the Plaintiff was taken care of and kept as the Son of a Nobleman, was proved by Mr. *Misset*, a Man whose Character is unexceptionable, and this is likewise proved by Mr. *Byrne* and *Cavenagh*, and others when at *Car-rickduff*; that the Plaintiff was treated and acknowledged as the Son of Lord *Altham*, and Mr. *Byrne*, said, "that he would re-

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sent the Plaintiff's being brought to his House or Table if he was, or he thought he was the Natural Son of Lord *Altham*.

My Lords, Mrs. *Heath* says, that Lady *Altham* had 100 l. a Year to live on till the Death of Lord *Altham*, and that then she was to have nothing, and tho' Lady *Altham* lived two Years after, yet she had no Maintenance, but lived on the Charity and Kindness of the Dutcheß of *Buckingham*.

My Lords, the Limitation of the Settlement under the Will of James Earl of *Anglesea*, *Arthur*, Lord *Altham* had but a Tenancy for Life. It was infallibly for the Benefit of *Arthur* Lord *Altham* to abandon his Son, for then the Purchaser stood the Chance of the Estate coming to the Defendant, after the Death of *Arthur* Lord *Altham*, if the Child was dead or put out of the Way, and so they joining both together, could the easier raise Money by the Sale of such Part of the Estate they pleased to sell. Besides, my Lords, Miss *Gregory* had so great an Interest in or Influence over Lord *Altham*, that she could make him or lead him to do any thing, how absurd soever. She took the Title of Lady *Altham* on her in Expectation that Lady *Altham* would die, that so her own Children might succeed to the Estate.

As to the Transportation of the Plaintiff, my Lords, the Action speaks for itself, tho' the Minds and Intentions of Man may vary. And, my Lords, the Name of *Annesley* and *Hennesley* is as different as any two Names whatsoever, and it appears from the *Tholfell* Books, that one hundred and fifty Persons were indented there, and yet by the Merchant's Book but forty of the Indented went abroad.

My Lords, if the Lessor of the Plaintiff Mr. *Annesley* was indented at the *Tholfell*, Mr. *Gonne* the Town Clerk, who had for many Years been acquainted with Lord *Altham*, the Plaintiff's Father, he must have known Mr. *Annesley*, and undoubtedly *Annesley* must have known him also; especially, since it has appear'd by the Evidence of one of our Witnesses, that a strict and diligent Enquiry is always made at the *Tholfell* Office as to the Parents and Relations of all those who come thither in order to be indented, to go out of this Kingdom, to any of the Plantations. And, my Lords, it is well known, that it is the regular and constant Custom of that Office to ask the Parties coming to indent, the Reasons of going abroad, and whether it is with the Consent of their Parents, their Friends and Relations, and generally one or other of these come with the Party or Parties indenting, at the Time he or they are indented; therefore, it is very plain, that the Plaintiff must have been put on board the Ship, in the secret, forcible kidnapping Manner, as has been fully, and I hope, satisfactorily proved.

As to Mr. *Giffard* the Attorney's Testimony concerning what the Defendant, the Earl of *Anglesea*, told him relating, that the Plaintiff was Mr. *Annesley's* Son. This is true, and his Evidence stands good, and without the least Impeachment.

The Evidence, my Lords, of *Joan Laffan* is positive and invariable, tho' she was examin'd a second Time, at the Distance of three Days, and the Court was pleas'd to say, that *Joan Laffan* did not vary in her Testimony.

Therefore, my Lords, as this is a Cause of the greatest Moment to the Kingdom in general, and to the Parties in particular, from the Consequence of it, and the Circumstance of the Case, the Jury will consider it well and look with the more careful Eye, and have no respect to Persons or Consequences, but do Justice, and give a just Verdict, which I hope, and presume will be on the Side of the Plaintiff.

Mr. Serjeant *Tisdell*, of Council with the Plaintiff Mr. *Annesley*.

My Lords, and Gentlemen of the Jury. In speaking to this Case, it will be necessary, before I go into the Evidence, to take Notice to your Lordships and the Jury, that the Plaintiff Mr. *Annesley's* Mother, had no Relation in this Kingdom, nor had his Father any, nor has the Defendant in the Progress of this Trial produced any Witnesses to prove the contrary. The Defendant has done his utmost, as to this Point, and he has failed therein: And tho' the Defendant is a Peer both in *England* and *Ireland*, and in Possession of the greatest Estate in this Kingdom.

But on the other hand, my Lords, the Lessor of the Plaintiff was sent out of the Kingdom, and was abroad fourteen Years. He was transported by the Defendant, in an illegal and villainous Manner. What Evidence could the Plaintiff get, or who was he capable of procuring, when he first came to *Ireland*? He must therefore be obliged to the Courtesy of these Witnesses who were pleased to assist him in making his Pretensions and Claim to his undoubted Right, for he knew none of them, by Reason of his long Absence, and his Youth, being a mere Boy when he was barbarously forced to leave the Place of his Nativity. Surely, my Lords, Application in so singular a Case must be made by Agents on the Behalf of the Plaintiff, to Persons, to find out the Truth, and it does not appear that there has been any tampering with any of the Witnesses, on our Side.

Indeed, my Lords, there is one *Rolph*, who says, Mr. *Mac Kircher* offer'd him a Lieutenantancy, but then *Rolph* said at the same Time, he knew it was not in *Kircher's* Power to give it him. And this he said in the Presence of two or three Persons, and the very first Time he ever saw *Kircher*. Can it reasonably be supposed, that *Kircher* would put himself into the Power of

of *Rolph* to undoe and ruin the Plaintiff's Cause, as such a Procedure would effectually have done? On the other hand, Can it easily be believed, from what *Rolph* says, that he would not accept of a Lieutenantcy, and that he lives above that Want? Surely then, Mr. *Kircher* would not have attempted to tamper with him. My Lords, the Plaintiff's producing Mrs. *Blake*, shews plainly, that he intended to produce and did produce her as a fair Witness, that could give the Court and Jury some Light into the Question now in Dispute.

My Lords, I will now speak to the Evidence in general on both Sides, and I shall shew from the Whole that the Plaintiff Mr. *Annesley* is intitled to a Verdict.

My Lords, *Mary Doyle* and *Elinor Murphy*, on the Part of the Plaintiff. These Witnesses prove the Birth and Christening, and say, that *Redmonds* was sent for the Midwife, and *Redmonds* says, he went for the Midwife. Colonel *Palliser* applied to *Redmonds* about it, on Behalf of the Defendant, before any Application was made to him by the Plaintiff.

My Lords, there is no Doubt but there was a Road made, for *Rolph* swears the Road was made three Quarters of a Year before Lady *Altham* came into the Country, for the Conveniency of going to Mrs. *Giffard's*, and further says, that it was made before the Cabbin was built; which is impossible for Lady *Altham* was not in the Country, at that Time, and Mrs. *Giffard* swears she never went that Road.

My Lords, as to the Meanness of the Drefs of the Witnesses for the Plaintiff, that is no Argument in Disfavour of his Cause, being the Servants that were in Lord *Altham's* House. There is but little Variation in the Circumstance of Time between the Plaintiff's Witnesses. But your Lordships will observe on the Evidence of *Rolph*, *Dwyer*, *Cavenah*, *Kneefe* and Mrs. *Heath*, they all swear that during the Cohabitation of Lord and Lady *Altham*, her Ladyship had no Child, was not with Child or even had a Miscarriage. These are all contradicted by the positive Evidence of the Witness concerning the Birth of Lady *Altham's* Son, and by all the other Evidences for the Plaintiff.

My Lords, as to Lady *Altham's* Pregnancy, the Witnesses in the Behalf of the Plaintiff, are *Alice Bates*, a Servant-maid at Mrs. *Briscoe's*, at the Time Lady *Altham* came to lodge there. Mr. *Turner*, his going to *Dunmeau* immediately after his Marriage, and Mr. *Higginson* who swears he saw Lady *Altham* with Child, as by the Circumstance which he observed on his Testimony, and further that he was bound for Lord *Altham* for the Sum of Seventy Pounds, and was at that Time Receiver of his Lordship's Rents.

My Lords, as to Mrs. *Cole's* Evidence relative to the Miscarriage, it is altogether credible, and that it should make an Impression

pression on her Mind is very reasonable and natural, for her Curiosity might lead her to see what that was, which they said was a Miscarriage, as probably not having seen any such thing before. An older and more experienc'd Person would not have had that Curiosity, as probably having seen the like before. My Lords, this Evidence could not be calculated for this Purpose, nor could it be dreamt of that any such Dispute as this, would ever happen? Which leads me to consider the Negative Point of the Pregnancy.

My Lords, *Owen Cavenah* is the first Witness to this Point, and it appears from his Testimony, that he left Lord *Altham's* Service and went to *Dublin*, with the Defendant, on the Defendant's falling out with Lady *Altham*, and further, that when he the Witness was at *Dublin*, he was sick, for a considerable time, and when recover'd that then he return'd back to the Service of Lord *Altham* at *Dunmeau*. So that *Rolph* was not at *Dunmeau* at the Time of the Birth of the Plaintiff, if he was, he has not told the Truth and has framed an Excuse for that Purpose.

Anthony Dwyer, swears the same, and therefore his Evidence cannot affect the Plaintiff. But, my Lords, the Evidence for the Plaintiff is positive, both as to the Pregnancy and the Birth of Lady *Altham's* Son and as it cannot be pretended, that they all have foresworn themselves, the Evidence for the Defendant must of Course fall to the Ground, and the Jury must judge from the Integrity of the Witnesses produced before them.

My Lords, as to the Evidence given on the Part of the Defendant where it is asserted, that it was the common and general Report in the Country all about the Neighbourhood of *Dunmeau* and *Ros*, that Lady *Altham* never had a Child, and that no one ever heard that her Ladyship was with Child. The producing Colonel *Loftus* as a Witness proves this, is rather throwing an Odium on the Defendant's Side, for it appears that Col. *Loftus* did not so much as know Lord *Altham's* Family, nay, he had never heard of them.

Colonel *Palliser* is a ready and forward Evidence, and an Agent in this Cause for the Defendant. And this appears from his desiring *Redmonds* not to appear, and would have persuaded him, that he could say nothing relating to the Parties concern'd in this Cause.

Mr. *Palliser*, the younger, says, he never saw Lady *Altham* at his Father's House, and he also is a forward Witness, and had too much Intimacy in that Family as appears from his own Testimony: And is it to be believed, that Lord *Altham* would have told him, his Intention of turning away his Lady, when from his own Evidence he said that Lord *Altham* never spoke to him before on any of his Affairs, nor had he any Conversation with his Lordship before on that Account, or any other Account whatsoever.

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My Lords, he is contradicted by *Joan Laffan*, who swears positively that *Mr. Palliser* had Lord *Altham's* Cap on the Morning of the Separation, and he says himself that he had his Hat and Wig on; but when they were Face to Face on the Table, he said he had a Cap on, but could not recollect what Cap he had on, yet from the Circumstances and Treatment he met with, he must for ever remember that Affair and its Particulars to his last Day, but would not charge his Memory with that Circumstance, neither did he shew any Resentment for the Injury, he pretended to have received or sustained, but now he appears here before the Court and Jury, and shews the Resentment he bears the Family, in giving his Evidence in this Cause, and particularly to the Lessor of the Plaintiff.

My Lords, As to the Evidence of *Aaron Lambert* and his Wife, they are not to be regarded; neither is *Mrs. Giffard's* relative to the Assizes at *Wexford*, she pretends to remember every Thing happen'd there, but did not remember her Sister was there, tho' in Company, and was going thither as appears by the Testimony of *Mrs. Heath*.

My Lords, There are the Testimonies of *Mr. Colclough*, *Mr. Turner*, and *Higginson*, for the Plaintiff, against the Testimonies of *Mrs. Giffard*, *Rolph* and *Heath* for the Defendant.

The next, my Lords, is to the Declaration that Lord *Altham* made, as that his Lordship wished he had a Child. And the Witnesses to that Purpose produced on the Part of the Defendant, were: First, Colonel *Harmon*, and he could not say, whether that Conversation was with Lord *Altham* before or after the Death of Queen *Anne*, therefore he is not positive in his Evidence, and could not fix any particular Time.

The Second, is Father *Downes*, and his Testimony is so inconsistent, that there is no Force or Credit can be given to him, neither does he fix any Time.

Colonel *Wall's* Testimony goes only to the Year 1725, and of his Apprehension of Lord *Altham's* Title, and my Lords, Colonel *Beckett's* is inconsistent, and long before the Time of the Birth of the Son; he says, that Lord *Altham's* Declaration was, that if he had no Son he did not care if the Estate went to the Devil! These, my Lords, is all the Evidence in my Apprehension that the Defendant examined on that Point.

It is now necessary for me, my Lords, to produce and mention, what the Witnesses for the Plaintiff said to that Point.

My Lords, Colonel *Piggott*, he swears, it was uncontroverted in the Country that Lord *Altham* had a Son.

Alderman *Barnes's* Testimony, my Lords, is positive, and he says, that Lord *Altham* told him he had a Son, and that he was told by five hundred People, that it was so.

My

My Lords, *Joan Landy's* Child was at that Time known and admitted to be a Bastard, and it could not be then in the Power of Lord *Altham* to make him his legitimate Son.

The Testimony of Lord *Mount Alexander*, from the Declarations of Lord *Altham*, he says, that his Lordship swore, *By God, Grove, I have a Child by my Wife, that will make my Brother's Nose swell.* From all which, my Lords, we have fully proved that Lady *Altham* had once a Child, and it is incumbent on the Defendant to shew what is become of him; and, unless the Jury can frame an Opinion, that the Gentlemen beforemention'd can be corrupted, they must believe there was a Child in the Family, and must see what is become of him, for we have shewn that Mr. *Annesley* the Lessor of the Plaintiff is the very Person, and Son and Heir of *Arthur* late Lord *Altham*.

My Lords, the Consistency of *Joan Laffan's* Testimony is no way confronted, on any of the Cross Examinations, and as to the Evidence that was given of her Character by the Witnesses for the Defendant, that did no Way affect her so as to render her a bad Witness. For her Evidence is supported by the Testimony of *Dominick Farrel*, of his seeing the Child in the Care of his Mother, before the Separation, he being in the House with her.

My Lords, the Defendant's Evidence is to prove the Child to be *Joan Landy's*, and not to stick to the negative Evidence of Lady *Altham's* having a Child.

Now, for that Purpose, *William Elms* was produced, who swore that *Joan Landy's* Child was brought home to *Dunmeau*, a Month after the Separation, and swears to him, and that he was about three Years old, and that he was given to the Care of *Black Nell*.

Martin Kneef swears, that the Child was five or six Years old, when he was brought home.

Roxules swears the same.

Coffee swears, that the Application was made to her by Lord *Altham*, to take home the Child, to her House.

Furlong the Fowler and Schoolmaster, and Mr. *Downs* the Priest, they both contradict one the other.

Anthony Dwyer swears, the Child was never in the House for three Quarters of a Year after the Separation.

Aaron Lambert swears the same.

My Lords, let the Gentlemen of the other Side say, there was or was not a Child in the House, when it is proved by all the Witnesses examined for the Defendant, except *Lambert* and *Dwyer*. The same serves my Purpose, to shew there was a Child there, and we have proved who he was. And, my Lords, we have proved by two Witnesses produced on Be-

half of the Plaintiff, that the Child of *Joan Landy* was dead and buried.

My Lords, we have also proved by Mr. *Misset*, the Care that was taken by Lord *Altham* of the Child, and what his Lordship said of the Child's being Earl of *Anglesea*, and if it was not so, what could that Report signify? If he was a Bastard it could avail nothing; if otherwise the Conversation was just and right; and also from what Mrs. *Annesley* swore, that she never heard the Legitimacy of the Child controverted.

But, my Lords, you will please to observe the Testimony of *Martin Kneef*, how contradictory is it to the Testimony of the other Witnesses about Lord *Altham*'s giving Directions for the correcting of the Child, and his Lordship's Expressions to him about the Child, when his Lordship said, that he had too much of the thieving Blood of the *Landy*s in him. How contradictory is this, my Lords, to the Testimony and Declarations of his Lordship towards the Child according to the Evidence of the Plaintiff's Witnesses.

My Lords, when the Child was brought to *Dublin*, the Treatment he met with there, was on the Account of Miss *Gregory*, which has been observed by the Gentlemen on the same Side with me, who spoke before me, and as to Alderman *King*, his Evidence is to no purpose, in my humble Apprehension.

My Lords I shall beg your Lordship's Indulgence for a few Minutes more to remind your Lordships and the Gentlemen of the Jury, that the Child always represented himself as the Son of Lord *Altham*, and also at the Funeral of his Father, and this met with such Credit, that Mr. *Hawkins* the King at Arms refused to inroll the Defendant amongst the List of Peers, and your Lordships and the Gentlemen of the Jury will please to call to mind the Defendant's Declaration of his Resentment towards the Child. And, my Lords, when all the Circumstances of the Plaintiff are join'd together, you will think him to be the legitimate Son of Lord *Altham*.

My Lords, there is further the Testimony of Mr. *Bush*, Mr. *Tighe*, Mr. *Plunket*, and Mr. *Ash*, who severally prove the Declarations of the Plaintiff Mr. *Annesley*, and the Resentment of the Plaintiff is plainly shewn from the Transportation. And as to that Point, we have the Testimony of *Reily* and *Byrne*, who prove the Defendant the Earl of *Anglesea*'s going along with them for the Transportation.

My Lords, this Action speaks for itself, there is no real Evidence to the contrary. The evil Mind of the Defendant and his Attempts against the Plaintiff must be looked upon by every impartial Man that the Plaintiff was the only Obstacle between the Honours and Estate of the Noble Family, which the Defendant

Defendant has wrongfully possessed himself of. That the Gentlemen of the Jury will consider this Case merely between the Plaintiff and the Defendant, without Regard to any other Persons whatsoever not now before the Court, and give a Verdict for Mr. *Annesley* the Lessor of the Plaintiff.

Mr. *Walsh* of the Council for the Lessor of the Plaintiff Mr. *Annesley*.

My Lords, and you Gentlemen of the Jury, the Defendant the Earl of *Anglesea* is Administrator to *Arthur* late Lord *Altham*, and by that Means has got all the Papers in his Hands, which to the Court and Jury would give further light into this Affair, and all the Evidence given at this Length of Time must be taken strongly on the Part of the Lessor of the Plaintiff, and as these Matters has been so fully spoke to by the Council for the Plaintiff who have spoken before me, I shall not take up much of your Lordship's or the Jury's Time, only I must beg Leave to make some few Observations, on the Declarations of the Defendant, to shew his Malice and Resentment towards the Lessor of the Plaintiff, and then I shall conclude.

And first then, my Lords, it appears from the Evidence of *Joan Laffan* that immediately after the Separation, the Defendant went down to the House of *Dunmeau* in the Absence of Lord *Altham*, and enquir'd for *Jemmy*, meaning the Lessor of the Plaintiff, ask'd, after what Manner his Mother behav'd on her Parting with him, and whether she was uneasy thereat; that the Witness told him the great Grief she was in and her earnest Request to his Lordship to let her have her Child. On which the Defendant replied, *God damn him, she should have had him, for that he would not be troubled with any of the Breed.*

Secondly, my Lords, it appears that the late Lord *Altham* and the Defendant, were sometimes in and sometimes out, and that they would agree now-and-then to raise Money, and the Suspicions that were raised in the Mind of Lord *Altham*, from the Inconstancy of his Wife, on the Account of her having a Child before, and the Insinuations of Miss *Gregory*, in whose Possession the Child was in *Dublin*, the Lady *Altham* was parted and went into *England* was there very infirm, and in no Hopes of any Reconciliation, or even of her Life, for her Ladyship was in a very bad State of Health. Miss *Gregory*, with whom Lord *Altham* lived in *Dublin*, took on her the Title of Lady *Altham*, and probably might have had Issue, whom she intended should inherit the Title, Honours and Estate of that Noble Family. And Evidence has been given, that it was commonly reported, that Lord *Altham* was married to Miss *Gregory*. Which plainly shews that it was their Inclination to abandon the Child, to turn him adrift in the World, when there was no Person to take Care of him, no Friends or Relations in this Kingdom, but

but those that were gaping and watching for that Title and Honour which must devolve on them, when the only Obstacle was removed, which was the Child. This is a plain Proof of the evil and wicked Designs of the People concern'd in the Transportation.

Thirdly, my Lords, when Lord *Albam* the Father of the Plaintiff was dead, Mr. *Annesley* did all that was in his Power to let the World know that he was right Heir to that Estate, Title and Honour, by declaring at his Father's Funeral that he was his Son; on which Mr. *Hawkins* the King at Arms, refused enrolling the Defendant, the present Earl of *Anglesea*, amongst the List of Peers. On which the Defendant usher'd out his Resentment, and threaten'd that he would transport him for an Upstart and a Vagabond, and thereupon pretends, that the Child had stole a Silver Spoon, apprehends him by Constables without any Warrant or Examinations of the Fact, calls to his Aid Emissaries for that Purpose; cries out, take him away and lodge him in a proper Place; that Attempt failing, he lays wait for him, kidnaps him, puts him into a Coach, goes with him to the Ship, puts him on board, and in this Manner, my Lords and Gentlemen, the innocent Youth was transported, and sold into Slavery, when he was of the Age of thirteen Years. When that was done in Discourse and in Company the Defendant openly declared with Raptures of Joy, when the Child was enquired for, and answered, *He is gone*. To whom does the Defendant make those Declarations? To Mr. *Ash*, his own Attorney, and which is not denied by the Defendant, nor did his Council venture to Cross-Examine him as to that or any other Matter.

Then, my Lords, to prove that the Child was not legitimate whom does the Defendant produce to that Point but Mr. *Palliser* the younger, who was the Instrument and Ruin of that Noble Family, to swear that he neither knew, ever heard or saw any Child, when Lord *Albam*, full of Resentment for the Affront offered to his Person, and Bed, makes at him with a drawn Sword, and would have run him through, had he not been prevented. What did Lord *Albam* do? Why, he order'd his Ear to be cut off, and Mr. *Palliser* shewed on the Table here in Court that Mark, which being recorded in a Court of Judicature, must have taken away the force of his Evidence, and made him an incompetent Witness. So that he now stands in a very despicable Light before the Court and the Jury on that Head.

What then follows, my Lords, immediately after the Death of *Arthur* late Earl of *Anglesea*; the Defendant possessing himself of that Estate; He was attack'd on all Sides with Law-suits for the Estate he so unjustly possessed himself of, and his Deeds flying in his Face, and hearing that the Lessor of the Plaintiff

Mr

Mr. *Annesley* was coming over from Slavery and would exert his Right. Upon which the Defendant declared he would fend for him, give him up his Honours, Title and Estate, for the Honours he did not value; He would come to an Agreement with *Jemmy* his Brother's Son, if he would allow him Three Thousand Pounds a Year, then he would go and live in *France*, and when *Jemmy* was in Possession of the Estate they could not turn him out he being the lawful Heir, and that then his Disputes and Law-suits would be at an End: He should then be able to live quiet and easy, and said he would fend for a *French* Master, to teach him the *French* Language, and the Defendant continued in that Mind until the unfortunate Accident to Mr. *Annesley* of being charged with shooting a Man. Then the Defendant's Heart was up again, and he promised Ten Thousand Pounds to have him hang'd. And to put his Intention in Execution, tho' the Defendant was no way allied or related to the Person killed, expended a large Sum of Money, for that End and Purpose; and being disappointed in that Design and to throw Dirt on the Plaintiff, sets him out as the Bastard Child of *Joan Landy*, a poor Kitchen Wench, of which he has made no Proof but an imaginary one, which is contradicted by all the Evidence for the Plaintiff.

From all which, my Lords, it manifestly and incontestably appears, that Lord *Altham* had a Child by his Lady, and that in Wedlock, and which we have proved to be the Lessor of the Plaintiff now in Court, and we insist it is incumbent on the Defendant to shew what became of him.

My Lords, notwithstanding the glaring Show the Defendant's Council has put on in this Case to influence the Jury, which are Men of so much Honour, Integrity and Worth as to be above Corruption, and will no Doubt do Justice (according to the meer Right without Respect of Persons, or the evil Consequence that may attend the Determination of this Case) in favour of the Plaintiff, no Person is to be hurt but the Defendant now before the Court on this Trial and Defence. And as he has been the Forerunner and Actor in the unwarrantable Acts of Transportation and Prosecution for the Murder, in order to have the Lessor of the Plaintiff hang'd, I shall conclude with the Words of the Parable in the Scripture, which the Defendant has taken for his Patern, *This is the Heir, come let us kill him, that the Inheritance may be ours.* Which the Defendant endeavour'd to accomplish, but thank God it was prevented, and undoubtedly his evil Deeds will now justly fall on himself, and he is to answer for them as such, I hope the Gentlemen of the Jury will give Verdict for the Plaintiff.

The Court then adjourned to the next Morning at Twelve o'Clock.



T H E

*Twelfth Day of the TRYAL.**Friday, November 25, 1743.*

TH E Court having met according to Adjournment, and being sat, and the Jury called over, they severally appear'd in the Jury Box, and being seated together.

*The Lord Chief Baron's CHARGE.**Gentlemen of the Jury,*

TH E single Question is, whether the Plaintiff is the lawful Son of the late Lord *Altham*? And the Plaintiff, Gentlemen, in order to prove himself to be so, has produced the following Witnesses. The first Witness is one Mrs. *Briscoe*, who to shew a Probability of the Lady's having a Child, proves a Reconciliation between her and her Lord; next comes Mrs. *Cole*, who swears the Lady miscarried at *Dunmeau*; *Catharine Mac Cormick* is also produced to prove the Miscarriage, then a Number of Witnesses are produced to shew the Pregnancy of the Lady in *Dublin*, and *Alice Bates* is brought to prove the Lord *Altham's* telling her of his Lady's being with Child, she also gives you her own Observations thereon and informs you of the laying her Hand upon her Belly; *Dennis Redmonds*, *Thomas Brooks*, and *Philip Breen*, are likewise produced to prove the Pregnancy. They next proceed to the actual Delivery: To prove which they produce two positive Witnesses, *Mary Doyle* and *Elinor Murphy*. They likewise produce Witnesses to prove that there were publick Rejoicings on the Occasion, and *Mary Doyle*, *Elinor Murphy* and *Charles Brown*, swear positively to the Christenning of the Child. *John Scott* tells

tells ye he was sent divers Times with Messages, and that he frequently saw the Child. You'll observe Gentlemen that they all agree as to the Time when the Child was born in the Month of May 1715. One *Carty* is produced to prove the Pregnancy. But his Evidence you will find to be of little Use as he differs from the rest in Point of Time. Major *Fitzgerald* says, that he was invited by Lord *Altham* to tap the Groaning Ale, and that he dined there the Day after the Birth. The Plaintiff's Evidence go on to shew you in what Manner the Child was disposed on, after its Birth: But before one *Furlong* comes and informs ye, that he applied for the nursing of the Child for his Wife, and gives ye an Account of the Conversation he had with Lord and Lady *Altham* on that Subject.

One Fact you'll observe, Gentlemen, which all the Witnesses swear to, that is, that *Joan Landy* was with Child at the Reconciliation when my Lord took his Lady home.

This *Joan Landy* the Witness was chosen as a Nurse for the Plaintiff, that at the Time of her being chosen, she lived in a Cabbin near the House, which several of the Witnesses tells ye was beautified, and had Additions made thereto, proper for the Reception of the Child. *Joan Laffan* says, that when the Child was about Sixteen Months old she was hired to dry-nurse it at *Dunmeau*.

You have likewise the Testimony of several Persons regarding the Speeches made both by Lord and Lady *Altham* relative to the Birth of the Child, particularly Mr. Alderman *Barnes*, whose Evidence seems very full and very positive. *Edward Lutwich* informs ye, that he saw a Child at *Ross*, whom he was sent to make Shoes for; whose Child he took to be Lord *Altham's*: And as a further Proof thereof swears, that Lady *Altham* said to him, *That she had better have been the worst Tradesman's Wife in Town than Lord Altham's, for then she could see her Son and have him oftner.* Several Witnesses are produced who prove that his Lordship always acknowledg'd the Child as his own, and introduced him as such to all Company, they have likewise produced Evidence to shew that when the Child was at *Kinna* he was not only treated as the Son of a Nobleman, but was also dress'd like one. Among other Witnesses to prove this is *Laurence Misset*, Gentleman, also Mrs. *Annesley* informs you that her Brother drank his Lordship's Son's Health, and that his Lordship thank'd him. They produce likewise the two *Cavenagh's* and *Charles Byrne*, and several other Witnesses who swear, that at *Carrickduff* the Child was by every Body look'd upon and received as his Lordship's lawful Son. The Child is from thence traced to *Cross-Lane*, and there proved to be the same identical lawful Son, by *Catharine O Neil*, *Michael Duff*, and others. From thence he is moved to *Pro-*
per-

per-Lane, and is put to School to one *Carty*, and there receiv'd and reputed to be the lawful Son of Lord *Altham*, as is sworn to by the two *Byrnes*, *Plunket* and others. About this time you'll observe Gentlemen of the Jury that one Miss *Gregory* was taken into Favour by his Lordship, and through her Means the Plaintiff was turn'd off. He was sent to Board to one *Cooper's*, who put him to School to one *Dunn*; but not being treated so well here as he expected, he went to the College, where he was entertained as a menial Servant by Mr. *Bushe*. The next Account given of him by the Evidence is his being entertained by one *Farrel*, and by him recommended to *Purcell*, the Butcher; both of whom understand him to be the lawful Son of Lord *Altham*. After being entertained sometime by *Purcell*, he leaves him abruptly, and goes to Mr. *Tighe's*. The Occasion of which, as related by *Purcell* is the Persecution of his Uncle the Defendant: He proceeded to give you a full Account of the Defendant's coming to his House before the Death of Lord *Altham*, and also an Account of what happen'd after his Death. You have next, Gentlemen, an Account of the Boy's being spirited away confirm'd by the Evidence of *Mark Byrne*, *Reilly* and others, and the Books of *Stephenson* are produced by *Cromie*, to shew that the Boy was actually put aboard the Ship, and did actually sail with that Ship; and he tells us, that on being question'd thereto, that a Person might be forc'd abroad against his Consent. He is entered in the Books of *Stephenson* by the Name of *James Annesley*, tho' the Entry made in the Town-Book is *James Hennefly*. You'll observe, Gentlemen, that the Town Clerk is living who made the Entry, tho' he is not produced. The Evidence for the Plaintiff do not give any further Account of him 'till his being accidentally found out in *Virginia*, his being recommended to Admiral *Vernon*, and by him sent to *England*, sometime after his being in *England* he had the Misfortune to kill a Man: You have then one *Giffard* an Attorney produced to you as an Evidence in behalf of the Plaintiff, who informs you of several Conversations with the Earl of *Anglesea* the Defendant, in one of which that Witness swears the Defendant said, he would surrender up his Right and Title to the *Anglesea* and other Estates, to the Plaintiff Mr. *Annesley*, if he would only give him 3000*l.* a Year, and he would retire to *France*, for that he would rather his Brother's Son should have it than any of the *Annesley's*, for *Jemmy's* Title could not be disputed, and pursuant to this Declaration the Defendant hired a Master to teach him the *French* Language.

But the unfortunate Accident of the Plaintiff's killing a Man, happening at that Time, the Defendant changed his Resolution, and employed the Witness to prosecute the Plaintiff with the utmost

utmost Rigour and regarded no Expences; but to get him hanged if possible, for that then he should enjoy the Estate and Title quietly. This, Gentlemen, is the Sum and Substance of the Evidence given by this Witness, it appears to be full and strong, you are to consider, Gentlemen, whether the Words spoke by the Defendant were not the Effect of Heat and Passion, and being distressed in his Circumstance: You are to observe too, Gentlemen, that there has been no Imputation thereon on the Character of the Evidence regarding this Fact, more than his betraying private Conversation, and his giving Evidence against a Client. You will also consider from what has appear'd before you, whether there has happened any thing that would influence him to commit Perjury. But if you believe, that the Defendant spirited away the Boy it will give Strength to their Declarations. You have likewise another Attorney produced as an Evidence for the Plaintiff, one *Shelcross Ash*, who informs ye that he was in Company with the Defendant when a Gentleman came in and said that a Boy at the Funeral of Lord *Altham* had made a very great Noise, and called himself the Son of the deceased, and that the King at Arms refused to enroll the Defendant in the House of Peers on that Account, and that his Lordship was very angry thereat, and said there were Ways and Means to get rid of the Boy, and that about a Year after this Witness having some Discourse about the Boy with his Lordship, the Defendant told him he was gone.

This, Gentlemen, is the Evidence given in Behalf of the Plaintiff, and you are to consider whether the Committing an unlawful Act of Spiriting away or transporting a Boy against his Consent carries any Weight, if it does, you are to consider within yourselves what could be the Inducement to commit that Act, and if you believe that the Act was committed, you will judge accordingly. I shall now proceed to give you the Evidence on Behalf of the Defendant, and then leave it to your Determinations.

Gentlemen of the Jury,

The Defendant has called a Number of Witnesses who resided in the Country during the whole Time of Lord *Altham's* being there, to prove that they never heard of, or saw a Child of theirs; Colonel *Loftus* and many others have been produced for that Purpose, and have each of them sworn, that they never saw or heard of such Child. The Defendant has likewise produced the Servants living there at the Time the Child was said to be born, who all agree that there was a Child of *Joan Landy's* born there, but not of the Lady *Altham's*. The Fact of

Lord and Lady *Altham's* going to *Wexford* and afterwards to *Dublin* does not appear to be strongly supported. I cannot therefore lay any great Stress there, for *Ker*, one of the Evidences they produce, himself says, that he does not remember any Ladies there: And *Turner* and *Higginson* swear positively that the Lord and Lady *Altham* were not there. There have been several Objections made to the Witnesses not speaking circumstantially, I look upon the Objection to be equal on both Sides, and the Meanness of the Persons is no Objection at all, for the Persons produced speak only to a single Fact, which may be put into the Mouth of any Person. You'll take Notice, Gentlemen, of the Opposition between Mrs. *Cole*, and Miss *Briscoe*, and Mrs. *Heath*, about their going to lodge at *Vine's*. Also the Difference between Mrs. *Cole* and Mrs. *Heath* regarding the Miscarriage. Mrs. *Heath* likewise stands opposed by *Hussey*, who swears he knew nothing of his being called upon to be an Evidence tho' it was intended so all along. *Rolph* who is prov'd by *John Scott* to be the Butler at first seem'd very consistent in his Evidence, but on his Cross Examination seem'd very contrary, said he had Discourse with *Forty*, but could not name one, and his Evidence concerning *Mac Kircher* is highly improbable. *Anthony Dwyer's* Evidence is contradicted about the Child's being in the House, tho' the Characters of *Elinor Murphy* and *Mary Doyle* appear untouch'd and their Evidence was consistent. 'Tis an Observation that has been made of the Evidence on both Sides that they appeared too forward. Gentlemen of the Jury you'll please to observe, that there appears a little Inconsistency in the Evidence given for the Defendant, they somehow discredit each other; for some of them swear that Lord *Altham* said he would not for 500 l. that the Boy should know that *Joan Landy* was his Mother, and others swear that my Lord often told the Boy that he had too much of the *Landy's* Blood in him. This Gentlemen is a very material Point and deserves your Consideration. Mrs. *Mac Mullen* swears that the Boy told her he was *Joan Landy's* Son, but she stands contradicted by Mrs. *Bush*.

Where there is Contrariety of Evidence, Presumptions are to be taken in. The Presumptions in Favour of the Plaintiff on the Spiriting of the Boy away, and the Prosecution. The Presumptions in Favour of the Defendant, are that by the Circumstances of the Family this Event must have been notorious.

There is an Improbability attending the Lady's being attended in the Manner she was at the Birth of the Child. The nursing of the Child. The Place it was taken to. The Lady's not having made mention of it to the Duke of *Buckingham*, or in the several Places the Lady went to,

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An improbability has been urged from the turning away this Boy. You will consider how far that is taken away by the Influence of Miss Gregory, and the Inhumanity of turning away a Bastard Son.

Catharine O Neil says, that the Lady was told of the Condition of the Child, and her not enquiring after it is a Presumption that this was not a legitimate Child; and there arises a strong Presumption from the Mother's Surviving, and taking no Care, or making any Enquiry about him.

She was supported upon Charity, and yet she suffer'd the Estate to go to the Earl of *Anglesea*. Alderman *King's* Evidence is as to this improbable. As to the Opinion of the late Lord *Albani*, touching its being an Advantage to have a Son, there cannot much be infer'd from that, he having afterwards made his Brother join with him.

You are to consider that many Persons, besides the Defendant, are to be affected as to the Verdict, and it is hard that other Persons should be affected by any improper Acts of the Defendant.

Mr. Baron *Marshall* and Mr. Baron *Dawson* gave their Charges to the Jury to the same Effect.

Then the Jury withdrew into the Jury-Room, and the Bailiff lock'd the Door, and about three or four Hours Time, they brought in their Verdict.

Clerk of the Peace. Gentlemen, which do you find for the Plaintiff or the Defendant?

Foreman. We find for the Plaintiff, with Six-pence Damages and Sixpence Cost.

Council for the Plaintiff. My Lords, we pray for Judgment on Behalf of the Plaintiff on reading this Verdict.

Mr. Lee of Council for the Defendant. My Lords, I hope your Lordships will not give Judgment, for I humbly apprehend the Plaintiff's Declaration is bad, and that he can't have Judgment, and offer'd some Matter in Law in Arrest of the Judgment.

Then the Court adjourn'd to the next Morning at Nine o'Clock.

Council for the Plaintiff. We pray for Judgment.

Court. Take Judgment.

Mr. Blake for the Defendant. I pray that this Writ of Error may be received.

Court. Allow the Writ of Error,

F I N I S.

As the Commission has been unable to obtain any information from the Government of the United States regarding the activities of the United States in the Philippines, it is unable to make any statement regarding the same.

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1. The first part of the document is a letter from the President of the United States to the Congress, dated January 3, 1862. It is a very long letter, and it contains a great deal of information about the state of the country at that time. It is a very important document, and it is one of the most interesting documents in the collection.

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1. The first part of the document is a list of names and addresses, which appears to be a directory or a list of contacts. The names are written in a cursive script, and the addresses are listed below them. The list includes names such as "John A. Smith", "John B. Smith", "John C. Smith", "John D. Smith", "John E. Smith", "John F. Smith", "John G. Smith", "John H. Smith", "John I. Smith", "John J. Smith", "John K. Smith", "John L. Smith", "John M. Smith", "John N. Smith", "John O. Smith", "John P. Smith", "John Q. Smith", "John R. Smith", "John S. Smith", "John T. Smith", "John U. Smith", "John V. Smith", "John W. Smith", "John X. Smith", "John Y. Smith", and "John Z. Smith".

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